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## Supreme Court of the United States

**OCTOBER TERM, 1957**

## No. 130

FIDELITY-PHILADELPHIA TRUST COMPANY AND ROBERT B. HAINES, III, EXECUTORS OF THE WILL OF MARY H. HAINES, DECEASED, PETITIONERS,

*vs.*

FRANCIS R. SMITH, COLLECTOR OF INTERNAL REVENUE.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

**PETITION FOR CERTIORARI FILED MAY 17, 1957**
**CERTIORARI GRANTED JUNE 17, 1957**

No. 12067

IN THE

# United States Court of Appeals For the Third Circuit

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FIDELITY-PHILADELPHIA TRUST COMPANY AND ROBERT B. HAINES, III, EXECUTORS OF THE WILL OF MARY H. HAINES, DECEASED, *Appellees*

v.

FRANCIS R. SMITH, COLLECTOR OF INTERNAL REVENUE, *Appellant*

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**On Appeal From the Judgment of the United States District Court for the Eastern District of Pennsylvania**

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## APPENDIX TO BRIEF FOR THE APPELLANT

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IN THE

# United States District Court

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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Civil Action No. 14406

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FIDELITY-PHILADELPHIA TRUST COMPANY AND ROBERT B. HAINES, III, EXECUTORS OF THE WILL OF MARY H. HAINES, *Plaintiffs*

v.

FRANCIS R. SMITH, COLLECTOR OF INTERNAL REVENUE, *Defendant*

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**Docket Entries**

10-31-52—Complaint
10-31-52—Summons Exit
10-31-52—Plaintiff's demand for Jury Trial filed
11-21-52—Appearance of Gerald A. Gleeson, Esq., for defendant filed.
12- 1-52—Summons returned, "on November 5, 1952, served United States Attorney and Collector of Internal Revenue and on November 14, 1952 served Attorney General and Commissioner of Internal Revenue by registered mail" and filed.
12-30-52—Stipulation and Order extending time for filing answer to 2-28-53 filed. G.
2-26-53—Answer filed.
10-26-53—Order to place case on Trial list filed.
8-26-55—Stipulation of facts filed.

11- 2-55—Order amending Stipulation of facts filed 11-3-55. Noted and notice mailed. Kr.
12-21-55—Argued sur Stipulation of facts—CAV—Kr.
1- 6-56—Transcript of 12-21-55
1-12-56—Submitted on stipulation of facts—CAV—Kr.
6-25-56—Supplemental stipulation of facts filed.
6-25-56—Second supplemental stipulation of facts filed.
6-29-56—Findings of fact filed.
6-29-56—Opinion, Kraft, J. granting judgment in favor of plaintiff filed. (order to be sub.)
8- 7-56—Judgment in favor of plaintiff and against defendant in the sum of $103,280.84 with interest and costs filed. Noted and notice mailed 8-7-56. Kr.
9-24-56—Defendant's motion to correct docket entry or to extend time for noting appeal, filed. (Copy to Montgomery, McCracken, Walker & Rhoads, Esq.
9-24-56—Copy of Clerk's notice to U. S. Court of Appeals filed.
9-24-56—Clerk of Court extending time for noting appeal to 9-27-56, filed Kraft. 9-26-56. Noted
9-27-56—Defendant's Notice of Appeal filed (Copy to Montgomery, McCracken, Walker & Rhoads, Esq.)
9-27-56—Copy of Clerk's Notice to U. S. Court of Appeals filed.
10-15-56—Record transmitted to U. S. Court of Appeals.

**Stipulation of Facts**

* * *

(13) Decedent made a separate application for insurance policy No. 4842239 and a separate application for annuity contract No. 30599. Both were made on April 5, 1934 at the same time and through L. J. Santamarie, Insurance Counsellor, of 123 S. Broad Street, Philadelphia, Pa.

(14) Decedent made a separate application for insurance policy No. 4885836 and a separate application for annuity contract No. 31908. Both were made on September 10, 1934 at the same time through L. J. Santamarie,

Insurance Counsellor, of 123 S. Broad Street, Philadelphia, Pa.

(15) Decedent made a separate application for insurance policy No. 2544451 and a separate application for annuity contract No. 020406. Both were made on October 5, 1934 at the same time through L. J. Santamarie, Insurance Counsellor, of 123 S. Broad Street, Philadelphia, Pa.

[Caption Omitted]

**Findings of Fact**

KRAFT, J.

, 1956

At the trial counsel agreed that the pleadings, stipulation of facts, supplemental stipulation of facts and of testimony, and amended stipulation of facts constituted the record for the determination of this case. From this record the following facts are admitted by the pleadings, stipulated by counsel or found from the stipulated testimony:

1. Plaintiffs are Fidelity-Philadelphia Trust Company, a Pennsylvania corporation, and Robert B. Haines, III, executors under the will of Mary H. Haines, deceased, who died May 7, 1946.

2. Defendant is the Collector of Internal Revenue for the First District of Pennsylvania.

3. Plaintiffs, on August 6, 1947, filed with defendant a federal estate tax return for the estate of Mary H. Haines, deceased, and paid a federal estate tax of $135,739.95.

4. Plaintiffs, on August 6, 1948 paid to defendant a deficiency in federal estate tax assessed against the estate of Mary H. Haines, deceased, in the amount of $97,434.75 with interest thereon of $5,846.09 which deficiency was assessed as a result of an increase by the Commissioner of Internal Revenue of the decedent's taxable estate by $350,057.65 by the inclusion in her gross estate of the

value of three life insurance policies on the life of the decedent as follows:

| Policy | Insurer | Amount |
|---|---|---|
| 4842239 | The Mutual Life Insurance Company of New York | $200,020.00 |
| 4885836 | The Mutual Life Insurance Company of New York | 100,028.65 |
| 2544451 | John Hancock Mutual Life Insurance Company | 50,009.00 |
| | Total | $350,057.65 |

5. On June 23, 1950, plaintiffs filed with defendant their claim for refund of federal estate tax on this decedent's estate in the amount of $97,434.75 (or such other amount as might be legally refundable) with interest, on the ground that the value of the aforesaid policies was not includible in decedent's gross estate.

6. The Commissioner of Internal Revenue, on November 6, 1950, notified plaintiffs of the disallowance of their claim for refund.

7. Plaintiffs brought this suit for refund of federal estate tax on the estate of Mary H. Haines, deceased, in the amount of $97,434.75 with interest paid thereon in the amount of $5,846.09, a total of $103,280.84, plus interest.

8. On April 27, 1934 upon decedent's application and the payment by her of a single premium of $179,358, The Mutual Life Insurance Company of New York issued its insurance policy No. 4842239 in the amount of $200,000 insuring decedent's life.

On the same date the same company issued to decedent its non-refundable annuity contract No. 30599 upon the payment by decedent of a single premium of $40,642. Under the terms of the annuity contract the decedent was to and did receive an annuity of $5,026 per annum during her lifetime.

9. On October 10, 1934 upon decedent's application and the payment by her of a single premium of $90,642, The

Mutual Life Insurance Company of New York issued its insurance policy No. 4885836 in the amount of $100,000 insuring decedent's life.

On the same date the same company, on decedent's application, issued to decedent its non-refundable annuity contract No. 31908 upon payment by decedent of a single premium of $19,358. Under the terms of this annuity contract decedent was to and did receive an annuity of $2,440.64 per annum during her lifetime.

10. On October 15, 1934 upon decedent's application and payment by her of a single premium of $43,491, the John Hancock Mutual Life Insurance Company issued its insurance policy No. 2544451 in the amount of $50,000 insuring decedent's life.

On the same date the same company, on decedent's application, issued to her its non-refundable annuity contract No. 020406 upon the payment by her of a single premium of $10,509. Under the terms of this annuity contract decedent was to and did receive an annuity of $1,295.56 per annum during her lifetime.

11. Neither the annuity contracts nor the applications therefor contained any reference to any of the aforesaid insurance policies. Neither the insurance policies nor the applications therefor contained any reference to any of the aforesaid annuity contracts.

12. Decedent made six separate applications for the respective insurance policies and annuity contracts.

13. The annuity contracts and the annuity payments made to decedent thereunder were not based upon and were in no way dependent on the consideration paid by decedent for any of the insurance policies.

The issuing insurance companies would have issued to decedent or to any other person of her age the annuity contracts which were issued to the decedent for the same premiums which the decedent paid for such annuity contracts without the purchase by decedent or such other person of any life insurance policies.

14. Each of the life insurance policies was issued to the applicant, then aged 76, without medical examination.

15. The insurer would not have issued its policy 4842239 without the purchase by decedent of annuity contract 30599.

16. The insurer would not have issued its policy 4885836 without the purchase by decedent of annuity contract 31908.

17. The insurer would not have issued its policy 2544451 without the purchase by decedent of annuity contract 020406.

18. Following issuance of the annuity contracts, the decedent received the respective annuity payments specified in each until her death. Upon her death all annuity payments under the annuity contracts ceased and such contracts had then no remaining value.

19. If the three insurance policies had not been issued by the respective insurers to the decedent, or, if they had been issued to her but had been surrendered prior to her death, the decedent would nevertheless have received the same annuity payments until her death when the annuity payments would have ceased and the annuity contracts would have then had no remaining value.

20. Both life insurance policies issued by The Mutual Life Insurance Company of New York designated the four named children of the decedent as equal primary beneficiaries and the Fidelity-Philadelphia Trust Company, as trustee under a trust agreement, as contingent beneficiary of the share of any of the decedent's children who predeceased her. The decedent had no beneficial or reversionary interest in the trust or the two life policies issued by this company after July 6, 1938.

21. Pursuant to decedent's written application for the policies, each of the two life policies issued by The Mutual Life Insurance Company of New York contained at and after issue the following provision:

RIGHTS: Anything in this policy to the contrary notwithstanding, prior to the maturity of this policy, the Insured's children Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines jointly, the survivors or survivor, if none of said children be living, then the living children of said children of the Insured, jointly or the survivors or survivor, if none of the children of said children of the Insured be living, then to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured, some of the beneficiaries may, without the consent and to the exclusion of the Insured or any other beneficiary, receive, exercise, and enjoy every benefit, option, right and privilege conferred by this policy or allowed by the Company.

22. The decedent's four children were named as beneficiaries of the life insurance policy issued by John Hancock Mutual Life Insurance Company in which no right to change beneficiaries was reserved to the decedent. The policy, as issued, provided for the payment of the proceeds to the decedent's executors or administrators if her four children predeceased her. The decedent assigned this life policy to Fidelity-Philadelphia Trust Company, trustee, under a trust agreement between her and that company, and then nominated that company as trustee to be contingent beneficiary of this life policy; and on November 22, 1934 the policy was amended so to provide.

23. Under the trust agreement decedent had reserved to herself all benefits, privileges and options available to her under the life insurance policy issued by John Hancock Mutual Life Insurance Company including rights of dividend receipt, assignment and surrender and had also reserved the right to change, amend or revoke the trust agreement. On July 6, 1938 the decedent amended the trust agreement by assigning irrevocably to the trustee for trust purposes all her right, title and interest in this and any other policy subject to the trust agreement and by irrevocably empowering the trustee to exercise and enjoy all options, benefits, rights and privileges under

this and any other policy subject to the trust agreement. By the same amendment the decedent further provided that the trust agreement as so amended was thereafter unalterable and irrevocable. Neither decedent nor her estate had any beneficial or reversionary interest in the trust she created nor any reversionary interest in the life insurance policy issued by John Hancock Mutual Life Insurance Company after July 6, 1938.

24. On March 15, 1935 the decedent's four children filed with the Collector of Internal Revenue a joint Donee's Information Gift Tax Return reporting the receipt by each of them, as gifts from the decedent, of a one-fourth interest by irrevocable assignment in the three life insurance policies.

25. On May 3, 1935 the decedent's one child and on September 19, 1935 the decedent's other three children each filed with the Collector of Internal Revenue an individual Donee's Information Gift Tax Return reporting the receipt by each of them, as gifts from the decedent, of a one-fourth joint interest by irrevocable assignment in each of the three life insurance policies.

26. In 1935 the decedent filed a Federal Gift Tax Return reporting, as gifts, the transfer in 1934 of the three life insurance policies to her children as complete, irrevocable gifts and paid the gift tax thereon.

27. The commissions received by the insurance agent on policies Nos. 4842239 and 4885836 were reported to the issuing company separately from the commissions received by the same agent on the payments for annuity contracts Nos. 30599 and 31908 issued to the decedent by the same company.

28. The premiums received from the decedent by The Mutual Life Insurance Company of New York in payment of insurance policies Nos. 4842239 and 4885836 were entered by that company in accounts which were kept separately from its accounts recording receipt of the payments received by it from decedent for annuity contracts Nos. 30599 and 31908.

29. The reserves that were maintained by The Mutual Life Insurance Company of New York for said insurance policies Nos. 4842239 and 4885836 were separate and different from the reserves maintained by it for the annuity contracts Nos. 30599 and 31908.

30. There was no indebtedness to The Mutual Life Insurance Company of New York on or in respect of policy No. 4842239 on or after its date of issue.

31. There was no indebtedness to The Mutual Life Insurance Company of New York on or in respect of policy No. 4885836 on or after its date of issue.

32. The Mutual Life Insurance Company of New York paid all dividends on insurance policies Nos. 4842239 and 4885836 to the decedent's four children or at their direction.

33. The commission received by the insurance agent for policy No. 2544451 was reported to John Hancock Mutual Life Insurance Company separately from the commission received by the same agent on the payment for annuity contract No. 020406.

34. The premium received from the decedent by John Hancock Mutual Life Insurance Company in payment of insurance policy No. 2544451 was entered by that company in accounts kept separate and apart from its accounts recording receipt of the payment from the decedent in payment of annuity contract No. 020406.

35. The reserves maintained by John Hancock Mutual Life Insurance Company for insurance policy No. 2544451 were separate and different from the reserves maintained by it for annuity contract No. 020406.

36. There was no indebtedness to John Hancock Mutual Life Insurance Company on or in respect of policy No. 2544451 on or after its date of issue.

37. If any or all of three life insurance policies had been surrendered by the owner thereof (whether such owner at the time was the decedent or a donee of the

decedent) to the issuing insurance company at any time after issuance and prior to the decedent's death, the issuing company would have paid such owner the then cash surrender value of such policy and would have cancelled such policy.

38. If insurance policies Nos. 4842239, 4885836 and 2544451 had been surrendered to the respective issuing companies immediately upon issue the respective companies would immediately have paid the following cash surrender values:

| Policy Number | Amount |
|---|---|
| 4842239 | $164,594.00 |
| 4885836 | 83,180.00 |
| 2544451 | 41,550.00 |

39. If insurance policy No. 2544451 had been surrendered to the issuing company on July 6, 1938 or between July 6 and July 15, 1938 the company would have paid a cash surrender value of $42,725.

40. Upon surrender to John Hancock Mutual Life Insurance Company of insurance policy No. 2544451 between July 15 and October 15, 1938 that company would have paid a cash surrender value on said policy of $42,837.50.

41. Upon surrender to John Hancock Mutual Life Insurance Company of insurance policy No. 2544451 between May 29, 1944 and June 15, 1944 that company would have paid a cash surrender value on said policy of $45,483.50.

42. If insurance policies Nos. 4842239 and 4885836 had been surrendered to The Mutual Life Insurance Company of New York on July 6, 1938 that company would have paid a cash surrender value for said policies of $171,674 and $86,221, respectively.

43. If the insurance policies had been surrendered to the respective issuing companies at any time after issuance and prior to the decedent's death, the respective companies would have paid the respective cash surrender values at the time of policy surrender.

44. If the insurance policies had been surrendered to the respective issuing companies immediately prior to the decedent's death the respective companies would immediately have paid the following respective cash surrender values:

| Policy Number | Amount |
|---|---|
| 4842239 | $186,404.00 |
| 4885836 | 93,595.00 |
| 2544451 | 46,250.00 |

45. After decedent's death the proceeds of the insurance policies were paid to the decedent's four children equally in the following aggregate amounts:

| Policy Number | Amount |
|---|---|
| 4842239 | $200,020.00 |
| 4885836 | 100,028.65 |
| 2544451 | 50,009.00 |

46. In order to protect itself in the event the decedent died shortly after purchasing life insurance policy No. 4842239, The Mutual Life Insurance Company of New York required that the aggregate consideration paid by decedent for said insurance policy No. 4842239 and for the aforesaid annuity contract No. 30599 exceed the face amount of said insurance policy. The said company determined that the face amount of said insurance policy No. 4842239 should be 10/11ths of such aggregate consideration. In determining the premium to be paid by decedent for such face amount of insurance the said company applied its regular insurance rates. No part of the premium of $179,358 paid by decedent for said insurance policy No. 4842239 paid for any of the said annuity contract No. 30599. The balance of such aggregate consideration, or $40,642 was determined by the said company as the amount to be used by decedent to purchase an annuity contract. The annuity premium of $40,642 paid by decedent for the aforesaid annuity contract No. 30599 did not pay for any of the said insurance policy No. 4842239.

47. In order to protect itself in the event the decedent died shortly after purchasing life insurance policy No. 4885836 aforesaid, The Mutual Life Insurance Company of New York required that the aggregate consideration paid by decedent for said insurance policy No. 4885836 and for the aforesaid annuity contract No. 31908 exceed the face amount of said insurance policy. The said company determined that the face amount of said insurance policy No. 4885836 should be 10/11ths of such aggregate consideration. In determining the premium to be paid by decedent for such face amount of insurance, the said company applied its regular insurance rates. No part of the premiums of $90,642 paid by decedent for said insurance policy No. 4885836 paid for any of the said annuity contract No. 31908 the balance of such aggregate consideration, or $19,358 was determined by the said company as the amount to be used by decedent to purchase an annuity contract. The annuity premium of $19,358 paid by decedent for the aforesaid annuity contract No. 31908 did not pay for any of the said insurance policy No. 4885836.

48. In order to protect itself in the event the decedent died shortly after purchasing life insurance policy No. 2544451 aforesaid, John Hancock Mutual Life Insurance Company required that the aggregate consideration paid by decedent for said insurance policy No. 2544451 and for the aforesaid annuity contract No. 020406 exceed the face amount of said insurance policy. The said company determined that the face amount of said insurance policy No. 2544451 should be 10/11ths of such aggregate consideration. In determining the premium to be paid by decedent for such face amount of insurance, the said company applied its regular insurance rates, and no part of the premium of $43,491 paid by decedent for said insurance policy No. 2544451 paid for any of the said annuity contract No. 020406. The balance of such aggregate consideration, or $10,509 was determined by the said company as the amount to be used by decedent to purchase an annuity contract. The annuity premium of $10,509 paid by decedent for the aforesaid annuity contract No. 020406

did not pay for any of the said insurance policy 2544451.

The disposition of this case upon the foregoing facts is made in an opinion contemporaneously filed.

C. William Kraft, Jr.

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[Caption Omitted]

**Opinion**

Kraft, J. June 27, 1956

Plaintiffs seek to recover from the Collector of Internal Revenue a refund of estate tax deficiency assessed against and paid by the estate of Mary H. Haines, deceased, in the amount of $103,280.84 with interest. Detailed factual admissions, stipulations and findings are filed contemporaneously.

In April, 1934 Mrs. Haines, then aged 76, purchased a single premium life insurance policy in the amount of $200,000 for a premium of $179,358. On the same day she purchased from the same insurance company for a premium of $40,642 a non-refundable annuity contract which provided an annual payment of $5,026 to her for life, any balance on her death reverting to the company. In October, 1934 Mrs. Haines purchased from the same company another single premium life insurance policy in the amount of $100,000 for a premium of $90,642. On the same day she also purchased from that company for a premium of $19,358 a non-refundable annuity contract which provided an annual payment of $2,440.64 to her for life, any balance at her death reverting to the company.

Both life insurance policies issued by this company designated as equal primary beneficiaries the four named children of Mrs. Haines and designated the Fidelity-Philadelphia Trust Company, as trustee under a trust agreement, as contingent beneficiary of the share of any of the children of Mrs. Haines who predeceased her. Pursuant to her written application for the policies each of these two life policies was issued designating her as the

"Insured" and containing the provision noted in the Margin.[1]

Later in October, 1934 Mrs. Haines purchased from a different company a third single life insurance policy in the amount of $50,000 for a premium of $43,491. On the same day she purchased from that company for a premium of $10,509 a non-refundable annuity contract which provided an annual payment of $1,295.56 to her for life; any balance at her death reverting to the company. Mrs. Haines' four children were named as beneficiaries of this life policy in which she reserved no right to change the beneficiaries; however, as issued, the policy proceeds were payable to her executors or administrators if her four children predeceased her. Thereafter, by assignment, Mrs. Haines included this life policy in a schedule forming part of the trust agreement between her and Fidelity-Philadelphia Trust Company and thereupon nominated that company, as trustee, to be contingent beneficiary of the policy which was amended so to provide on November 22, 1934. Under the terms of the trust agreement Mrs. Haines had reserved to herself all benefits, privileges and options available to her under this life policy including the rights of dividend receipt, assignment and surrender. She had reserved also the right to change, amend or revoke the trust agreement. On July 6, 1938 Mrs. Haines amended the trust agreement by assigning irrevocably to the trustee for the purposes of the trust all her right, title and interest in this and any other policy under the trust and by irrevocably empowering the trustee to exercise and enjoy all options, benefits, rights and privileges under this and other policies. By the same amendment she further provided that the trust agreement as so amended

[1] RIGHTS: **Anything in this policy to the contrary notwithstanding, prior to the maturity of this policy, the Insured's children Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines jointly, the survivors or survivor, if none of said children be living, then the living children of said children of the Insured, jointly or the survivors or survivor, if none of the children of said children of the Insured be living, then to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured, some of the beneficiaries may, without the consent and to the exclusion of the Insured or any other beneficiary, receive, exercise, and enjoy every benefit, option, right and privilege conferred by this policy or allowed by the Company.**

was thereafter unalterable and irrevocable. After July 6, 1938 neither Mrs. Haines nor her estate had any beneficial or reversionary interest in the trust or any reversionary interest in any of the three life policies.

In 1935 the four children filed appropriate returns reporting the receipt by each, as gifts from their mother, of a one-fourth interest in each of the life policies. In the same year Mrs. Haines suitably reported gifts of the three life policies to her children and paid gift taxes thereon.

The insurance companies required that the annuity contracts be purchased as a condition of issuance of the respective life policies. The annuity contracts and the annuity payments made to Mrs. Haines thereunder were not based upon or in any way dependent on the premiums paid by her for the respective life policies. The insurance companies would have issued these annuity contracts to Mrs. Haines or to any other person of her age for the same premiums without purchase of any life policies.

The deficiency assessment and the denial of the plaintiffs' refund claim were based on the contention that the life insurance policies were an investment rather than life insurance and that the value was taxable in decedent's gross estate under Section 811(c) of the Internal Revenue Code[2] either as transfers intended to take effect in pos-

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[2] Sec. 811. Gross estate

The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States—

(c) [as amended by Section 7(a) of the Act of October 25, 1949, c. 720, P. L. 378 (81st Cong.*)] transfers in contemplation of, or taking effect at, death:

* Section 7(b) of the Act of October 25, 1949 made this section as amended applicable to estates of decedents dying after February 10, 1939.

(1) General rule. To the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise—

(A) in contemplation of his death, any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without consideration, shall unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this subchapter; or

(B) under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (i) the possession or enjoyment of, or the right to

session or enjoyment at or after death or as a transfer in decedent's lifetime of property, the right to income from which the decedent retained for life.

A transfer in which the transferor retains the income for life is quite different from a transfer intended to take effect in possession or enjoyment at or after death. Subsection (B) of Section 811(c)(1) of the Revenue Code of 1939 applies to the former and subsection (C) of that Section to the latter. The transfer by the present decedent occurred before October 7, 1949. Hence, even if Section 811(c)(1)(C) were applicable the inclusion of the value of the life insurance policies is barred by Section 811(c)(2) since the decedent retained no rever-

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the income from, the property, or (ii) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; or

(C) intended to take effect in possession or enjoyment at or after his death. . .

(2) Transfers taking effect at death—transfers prior to October 8, 1949. An interest in property of which the decedent made a transfer, on or before October 7, 1949, intended to take effect in possession or enjoyment at or after his death shall not be included in his gross estate under paragraph (1)(C) of this subsection unless the decedent has retained a reversionary interest in the property, arising by the express terms of the instrument of transfer and not by operation of law, and the value of such reversionary interest immediately before the death of the decedent exceeds 5 per centum of the value of such property. For the purposes of this paragraph, the term 'reversionary interest' includes a possibility that property transferred by the decedent (A) may return to him or his estate, or (B) may be subject to a power of disposition by him, but such term does not include a possibility that the income alone from such property may return to him or become subject to a power of disposition by him. The value of a reversionary interest immediately before the death of the decedent shall be determined (without regard to the fact of the decedent's death) by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations prescribed by the Commissioner with the approval of the Secretary. In determining the value of a possibility that property may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such property may return to the decedent or his estate.

*Section 7(b) of Act of October 25, 1949, c. 720, P.L. 378 (81st Cong.)*

(b) The amendment made by subsection (a) shall be applicable with respect to estates of decedents dying after February 10, 1939. The provisions of section 811(c) of the Internal Revenue Code, as amended by subsection (a), shal except as otherwise specifically provided in such section or in the following sentence) apply to transfers made on, before or after February 26, 1926. The provisions of section 811(c)(1)(B) of such code shall not, in the case of a decedent dying prior to January 1, 1950, apply to—

(1) a transfer made prior to March 4, 1931; or

(2) a transfer made after March 3, 1931, and prior to June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516). No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made prior to the date of the enactment of this Act.

sionary interest in the property transferred arising by the express terms of the instrument of transfer.

The defendant's earlier position, that the value of the three life policies were includible in the decedent's gross estate as transfers intended to take effect in possession or enjoyment at or after her death, appears to have been abandoned by the defendant in his brief and oral argument.

Determination of whether the value of the life policies are includible in decedent's estate as a transfer in her lifetime of property, the income or right to income from which she retained for life, involves a consideration of the applicability and rationale of the conflicting decisions upon which plaintiffs and defendants rely. Plaintiffs' prime dependence is upon Bohnen v. Harrison, 7 Cir., 199 F.2d 492.[3] Defendant is afforded support by Burr v. Commissioner of Internal Revenue, 3 Cir., 156 F.2d 871;[4] Conway v. Glenn, 6 Cir., 193 F.2d 965, and Estate of Reynolds v. Commissioner, 45 B.T.A. 44.

In the Burr case the decedent purchased three life policies and an annuity contract and irrevocably assigned the life policies to his children. The Court said:

> "The two purchases were obviously a single transaction, the annuity premium being part of the consideration for the insurance policies. Unless differentiated because of the subsequent assignment, therefore, the case is squarely within the Supreme Court's decision in Helvering v. Le Gierse, 312 U.S. 531, 61 S.Ct. 646, 85 L.Ed. 996, holding the proceeds of the policies taxable under § 811(c)."

With this construction of the Le Gierse case I am unable to agree. In Le Gierse, the life policy and annuity contract were similar to those in the instant case. However, that decedent had never assigned the life policy and still owned it at his death. It was payable to his daughter as beneficiary. His estate contended only that the policy proceeds were "insurance" and, being within the $40,000 exemption, were not includible in the estate. No conten-

[3] Affirmed per curiam by an equally divided court in 345 U.S. 946 (1953).

[4] Cert. den. 329 U.S. 785 (1946).

tion appears to have been made by the estate in Le Gierse that the policy proceeds were not taxable as a transfer intended to take effect at death, if the proceeds were not "insurance." The basic question before the Supreme Court was whether the policy proceeds constituted an amount "receivable as insurance" within the meaning of § 302(g) of the Revenue Act of 1926. The Supreme Court held that, for purpose of determining whether the proceeds of the life policy were "insurance" within the meaning of § 308(g) the life insurance policy and the annuity contract must be read together, and that, so read, no essential element of risk existed and, hence, the proceeds were not true "insurance." The Supreme Court did not say that the two contracts were for all purposes indivisible or inseparable as the Burr and Conway v. Glenn cases decide. On the contrary the right of policy assignment was expressly recognized[5] in Le Gierse, but was deemed immaterial to the question of insurance risk then under consideration.

The Court's statement in Burr that the two purchases were a single transaction and that the annuity premium was part of the consideration for the insurance policies is true only in the sense that the insurance company would not have issued the life policies without the simultaneous purchase of the annuity. Unless the factual situation there presented differed from the present case or was misconstrued, it was erroneous to infer that the premiums for the life policies and the annuity contract were so commingled as to render the policies and the annuity one indivisible asset. In the present case plaintiffs and defendant agree that no part of the premiums for the life policies paid for any annuity contracts and that the annuity premiums paid for no part of the life policies; further, that the present decedent or any other person her age could have purchased the same annuity contracts from the same companies for the same premiums without any life insurance.

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[5] 312 U.S. 531, 541.

The Court's conclusion in the Burr case that the decedent's transactions were an investment rather than insurance accords with the Le Gierse decision. That conclusion, however, does not justify the determination, unsupported by Le Gierse, that an investment so made is then and thereafter indivisible and inseparable.

The Burr case and Conway v. Glenn, supra, which followed it, gave scant attention to the import of Goldstone v. United States.[6] There the decedent had purchased and paid for a life insurance policy and annuity contract. As issued the life policy designated his wife as "Owner" and the decedent as the "Insured," and was payable on his death to his wife, or, if she predeceased him, to their daughters. If all designated beneficiaries predeceased the decedent the policy proceeds were payable to his executors or administrators. The annuity contract, as issued, designated the wife as "Purchaser" and the decedent as "Annuitant." This contract provided for equal semi-annual payments to the decedent during his lifetime and for the payment of $6,071.46 to his wife upon his death or, if she predeceased him, to their daughters or, if they were dead, to his estate. Under both contracts the wife had the unrestricted power to assign, borrow, receive dividends, change beneficiaries and surrender. Both contracts provided that, if the wife predeceased the decedent, all of the enumerated powers were to vest in the decedent to the extent that such powers had not otherwise been exercised by the wife. The Court said:[7]

> "*Helvering* v. *Le Gierse*, 312 U.S. 531, makes it plain that these two contracts, which must be considered together, contain none of the true elements of insurance risk. Section 302(g) of the Act, relating to amounts receivable 'as insurance under policies taken out by the decedent upon his own life,' is therefore inapplicable."

The Court then decided that the proceeds of the life policy and the balance of the annuity contract payable to the

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[6] 325 U.S. 687 (1945).

[7] 325 U.S. at 690.

widow were includible in the decedent's gross estate under Section 302(c) as the subject of a transfer intended to take effect in possession or enjoyment at or after the decedent's death. The Court said:[8]

> "The decedent, in making disposition of $25,000 of his property through these two contracts, retained a valuable interest in that amount which was not extinguished until he died. He retained not only the right to semi-annual payments under the annuity contract but also a contingent reversionary interest in the entire proceeds of both contracts. Had he survived his wife he could have exercised the attributes of ownership over the contracts, changing the beneficiaries or surrending the contracts as he saw fit. If he had survived both his wife and his daughters the proceeds of the two contracts would automatically have been payable to his estate when he died. Thus the ultimate disposition of the proceeds of the contracts was suspended until the moment of decedent's death. Only then did the respective interests of the wife and daughters become fixed; only then were their interests freed from the contingency of the decedent's survival. His death was the decisive fact that terminated all of his potential rights, and insured the complete ripening of the wife's interests. . . . The string that the decedent retained over the proceeds of the contracts until the moment of his death was no less real or significant because of the wife's unused power to sever it at any time.
>
> *The essential element in this case, therefore is the decedent's possession of a reversionary interest at the time of his death*, delaying until then the determination of the ultimate possession or enjoyment of the property. The existence of such an interest constitutes an important incident of ownership sufficient by itself to support the imposition of the estate tax." (Emphasis supplied)

While the specific question in the instant case was left undecided in Goldstone, it is clear that the decision did not give to Le Gierse the interpretation put upon the latter by the Burr case nor did it indicate indivisibility or in-

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[8] 325 U.S. at 691-692.

separability. If, therefore, the present decedent had the right to separate the life insurance contracts from the annuity contract and to dispose of the former, she must be held to have done so conformably with the Goldstone decision since neither she nor her estate retained any direct or reversionary interest, contingent or otherwise, in the three life policies—in short, she retained no string over the proceeds of these policies after July 6, 1938.

That the life insurance policy is separable from the annuity contract under such circumstances as here exist was decided in a well-reasoned opinion in Bohnen v. Harrison in which the Court said:[9]

> "Though the Supreme Court has decided that such an arrangement is in the nature of a single investment program and, therefore, not within the definition of insurance mentioned in the former act, $40,000 of which was then allowed to be deducted from the gross estate of a decedent, it does not follow that this investment program, made up of the two contracts, was indivisible. On the one hand, it is obvious that for the consideration of some $22,000 a fixed annuity of $1600 was bought and that, on the other, in consideration of the sum of some $53,000 advanced, the company agreed to pay, at the insured's death a fixed sum of $72,000. The annuities were not based upon and in no wise dependent upon any consideration given for the life policy. The money to be paid under the life contract was in no wise based or dependent upon the sum advanced to secure the annuities. The two contracts constituted independent units, two pieces of property. Consequently, when the insured immediately transferred and assigned all of her right, title and interest of every character in and to the policy of insurance, that unit of her estate passed to

[9] 199 F.2d at 493.

[fol. 25] IN UNITED STATES DISTRICT COURT

EXHIBIT A TO STIPULATION OF FACTS

199 S
Life—Single Premium.
January, 1932.

Philadelphia

No. 4,842,239

# The Mutual Life Insurance Company of New York

ANNUAL DIVIDEND
SINGLE PREMIUM LIFE POLICY

On the Life of

DRAW CHECK TO PAY THIS PREMIUM TO THE ORDER OF THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Mary H. Haines

Amount, $ 200,000

# MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

(First Policy issued February 1st, 1843)

Secretary.

Notice has been received that the name of Robert B.Haines one of the beneficiaries hereunder is Robert B.Haines,3rd instead of as herein stated.
The Mutual Life Insurance Company of New York.

New York,N.Y.May 29,1935.

## WILL PAY

(beneficiaries specified in the "Designation of Beneficiary"
to the Insured's (clause endorsed on page 3 hereof , the Beneficiary,

DEATH BENEFIT TWO HUNDRED THOUSAND Dollars,
(Face Amount of this Policy)

upon receipt of due proof of the death

of Mary H. Haines , the Insured.

the assignees, and was no longer her property. It could, therefore, under no conception, constitute a part of her taxable estate when she died thereafter."

The determination should rest upon the realities of the situation and the essential nature of the donee's ownership. The realities of the situation are that this decedent made investments which were not true insurance because no risk element to the insurer was involved. However, the life policies and annuity contracts were, on their faces, separate contracts and, while they must be read together to determine the realities, no valid reason is advanced by the defendant to hold that such an obligatory joint perusal welds them together permanently and indissolubly for all purposes.

Judgment will be entered in favor of the plaintiffs upon submission within fifteen days of an appropriate form of judgment.

C. WILLIAM KRAFT, JR.

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[Caption Omitted]

**Judgment**

AND NOW, to wit this 6th day of August 1956, in accordance with the Finding of Fact and Opinion of the Court filed on June 27, 1956, it is ordered that judgment be and is hereby entered in favor of plaintiffs, FIDELITY-PHILADELPHIA TRUST COMPANY and ROBERT B. HAINES, III, Executors of the Will of Mary H. Haines, and against defendant, FRANCIS R. SMITH, Collector of Internal Revenue, in the sum of $103,280.84 with interest from August 6, 1948,

at the rate of six per cent (6%) per annum and with costs as provided by law.

BY THE COURT:

/s/ C. WILLIAM KRAFT, JR.
*J.*

APPROVED AS TO FORM ONLY:

/s/ ROBERT T. MCCRACKEN
Robert T. McCracken,
*Attorney for Plaintiff*

/s/ JOHN B. LEAKE
John B. Leake,
*Attorney for Plaintiff*

/s/ W. WILSON WHITE
W. Wilson White,
*United States Attorney*

/s/ ALAN J. SWOTES
Alan J. Swotes,
*Assistant United States Attorney*

# L. J. SANTAMARIE
## INSURANCE COUNSELLOR
### 123 S. BROAD ST., PHILA.

No. 4,042,497

# The Mutual Life Insurance Company of New York

## ANNUAL DIVIDEND SINGLE PREMIUM LIFE POLICY

On the Life of

DRAW CHECK TO PAY THIS PREMIUM TO THE ORDER OF THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Mary H. Haines

Amount, $ 200,000

Date, April 27th 19 34

Single Premium, $179,358.00

2-928

upon receipt of due proof of the death

of Mary H. Haines , the Insured.

This Policy also provides for

GENERAL PROVISIONS

Optional Modes of Settlement (Section 1), Loans (Section 3),

Annual Dividends (Section 2), Cash Value (Section 4).

This Policy is issued in consideration of the application and of the payment of the single premium of

SINGLE PREMIUM

ONE HUNDRED SEVENTY NINE THOUSAND THREE HUNDRED FIFTY EIGHT Dollars.

When the premium on this Policy is paid to the Company, it will be acknowledged either by a receipt signed by the Treasurer and countersigned by the Agency Cashier, or by endorsement on the Policy by the Company at its Home Office. Possession of this Policy is not otherwise evidence of the payment of such premium.

The succeeding pages 2 and 3 of this Policy are a part of this contract.

**In Witness Whereof,** the Company has caused this Policy to be executed this Twenty-seventh day of April 1934.

Secretary. David F. Houston. President.

Countersigned L. Wolfe. Registrar.

See Mode of Settlement attached hereto

**Section 1. Optional Modes of Settlement.**

The proceeds of this Policy, upon maturity as a death claim or upon surrender, as the case may be, may, if so elected, be settled by one of the following optional Modes of Settlement instead of being paid in one sum:—

Option 1.—By the Company's holding the proceeds as a principal sum payable at the death of the payee, the Company meanwhile paying monthly interest (with a final interest payment to the date of such death) at three per cent a year plus participation in excess interest at such rate as the Company may determine for each year;

Option 2.—By payment of equal monthly instalments for the number of years elected, in accordance with the table on page 3. Instalments will be increased by participation in excess interest over three per cent a year at such rate as the Company may determine for each year;

Option 3.—By payment of equal monthly instalments for five, ten, or twenty years certain, as elected, and for the remaining lifetime of the payee, in accordance with the table on page 3. Instalments for the period certain will be increased by participation in excess interest over three per cent a year at such rate as the Company may determine for each year;

Option 4.—By payment of equal monthly instalments of the amount specified in the election as long as the proceeds, together with interest thereon as provided for in Option 1, shall suffice, with a final payment of any balance less than one such instalment.

Under Option 1 the first interest payment will be due at the end of one month from the date when the proceeds become payable. Under Options 2, 3, and 4 the first instalment will be due when the proceeds become payable.

Note.—If requested in the election, payment of interest under Option 1 or of instalments under Option 2, 3, or 4 will be made quarterly, semi-annually, or annually instead of monthly. The first payment of interest under Option 1 will be due at the end of three months, six months, or one year according as interest payments are quarterly, semi-annual, or annual. The first instalment under Option 2, 3, or 4 will in all cases be due when the proceeds become payable.

Method of Election.—An optional Mode of Settlement can be elected, or a previous election revoked or changed, only by written notice to the Company at its Home Office accompanied by the Policy for endorsement.

Note.—When a payee becomes entitled to a single sum, he may elect one of these options.

General Provisions.—Joint or contingent payees may be named under the above options within such limitations as may be prescribed by the Company, except that under Option 3 there cannot be joint payees and the instalments to contingent payees will not be payable beyond the period certain.

These optional Modes of Settlement are not available if a corporation, association, partnership, or estate is the payee, nor if the guaranteed interest payments or instalments will, irrespective of dividends or indebtedness, be less than $10 each.

If any of the above options has been elected, a supplementary contract bearing the date on which the proceeds of the Policy become payable and providing for the settlement elected will be issued.

Surrender or Transfer of Supplementary Contract.—Unless otherwise specified in the election, neither the supplementary contract nor any of the benefits accruing thereunder shall be transferable or subject to surrender, commutation, or encumbrance, except that at the death of the last surviving payee the then surrender value as defined below shall be payable to the executors or administrators of such payee.

The surrender value of the supplementary contract shall be as follows:

Option 1.—The principal sum with any accrued interest;

Options 2 and 3.—The commuted value, computed at three per cent interest compounded annually, of future instalments certain. Under Option 3 no such surrender may be made during the lifetime of the original payee;

Option 4.—Such part of the proceeds of the Policy and interest thereon as shall not have been paid in instalments.

**Section 2. Annual Dividends.**

The share of the divisible surplus accruing on this Policy shall be allotted as a dividend annually on each anniversary of its date.

Each such dividend may be either:—

1. Used to purchase a paid-up participating addition to the sum insured, herein called dividend addition, which shall be automatically added on the date of allotment and will continue in force unless and until one of the other options be duly elected; or,

2. Paid in cash; or,

3. Deposited with the Company at interest within ninety days from date of allotment (called dividend deposit). Interest will be credited at such rate as may be determined by the Company, but never less than three per cent a year, and will be added to existing dividend deposits annually. Dividend deposits existing at the death of the Insured shall be then payable to the beneficiary.

At any time any dividend additions may be surrendered for the full reserve thereon or any accumulated dividend deposits may be withdrawn.

Post Mortem Dividend.—Upon the death of the Insured a cash dividend will be credited to this Policy for the fraction of the policy year elapsed before such death.

**Section 3. Loans.**

At any time while this Policy is in force, the Company will, upon receipt of the Policy and a loan agreement satisfactory to the Company and on the sole security of this Policy, loan an amount which with interest shall be within the limit of the cash value of this Policy on the due date of the loan.

Any existing indebtedness to the Company on the Policy shall be paid out of such loan.

Interest on the loan shall be at the rate of six per cent a year payable on the due date of the loan provided for in the loan agreement and on each anniversary of the date of the Policy thereafter. If this interest is not paid when due it shall be added to the existing loan and bear interest at the same rate. Failure to repay the loan or pay interest shall not avoid the Policy unless the total indebtedness, including accrued interest, shall equal or exceed the cash value of the Policy, in which case the Policy shall become void thirty-one days after notice shall have been mailed to the Insured and any assignee of record at the Home Office of the Company at their last known addresses.

The loan, with accrued interest, or any part thereof not less than $10, may be repaid at any time prior to the date when due.

**Section 4. Cash Value.**

At any time after this Policy shall have been one year in force, this Policy may be surrendered for its net cash value. Such net cash value shall be the cash value as defined below less any indebtedness to the Company hereon.

The cash value at any time shall be the reserve at such time for the face amount of this Policy and for any dividend additions hereto increased by any accumulated dividend deposits and less a surrender charge of not more than two per cent of the face amount of this Policy.

After the Policy has been ten years in force there shall be no surrender charge.

**Section 5. Table of Cash and Loan Values.**

These values are computed in accordance with the provisions of Sections 3 and 4 and are on the assumption that there are no dividends or indebtedness.

Any dividend additions or dividend deposits will increase such values and any indebtedness to the Company on this Policy will decrease such values as provided in the above mentioned sections.

Values for intermediate periods will be calculated as provided in Sections 3 and 4.

J.

| At End of Policy Year | FOR EACH $1,000 FACE AMOUNT Cash Value (Also Loan Value as Explained in Section 3) | At End of Policy Year | FOR EACH $1,000 FACE AMOUNT Cash Value (Also Loan Value as Explained in Section 3) |
|---|---|---|---|
| 1 | $822.97 | 14 | $945.23 |
| 2 | 334.30 | 15 | 951.58 |
| 3 | 845.49 | 16 | 957.49 |
| 4 | 856.56 | 17 | 962.31 |
| 5 | 867.42 | 18 | 966.33 |
| 6 | 875.60 | 19 | 970.37 |
| 7 | 886.13 | 20 | XXXXXXX |
| 8 | 896.59 | 21 | |
| 9 | 907.01 | 22 | |
| 10 | 917.32 | 23 | |
| 11 | 924.88 | 24 | |
| 12 | 932.02 | 25 | |
| 13 | 938.75 | 30 | |

NOTE.—The loan value stated in the above table for the end of a policy year will, less interest, be available during such year as provided in Section 3.

**Section 6. Reserves.**

The reserve held for the face amount of this Policy and for any dividend additions, and the reserves mentioned in this Policy shall be computed in accordance with the American Experience Table of Mortality assuming interest at the rate of three per cent a year.

[fol. 27]

RIGHTS: Anything in this policy to the contrary notwithstanding, prior to the maturity of this policy, the Insured's children Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines jointly, the survivors or survivor, if none of said children be living, then the living children of said children of the Insured, jointly or the survivors or survivor, if none of the children of said children of the Insured be living, then to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured, some of the beneficiaries may, without the consent and to the exclusion of the Insured or any other beneficiary, receive, exercise, and enjoy every benefit, option, right and privilege conferred by this policy or allowed by the Company.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, N. Y. April 27,1934
32-515

27

Secretary

**Endorsement attached to and forming a part of policy No. 4842,239.**
**issued by The Mutual Life Insurance Company of New York.**

# Mode of Settlement.

It is agreed
~~The Insured has elected~~ that if this policy matures as a claim by death, settlement of the amount payable shall be made as follows, provided, however, that any change of beneficiary hereunder shall constitute a revocation of this election of Mode of Settlement:

I. PAYEES:

Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines, children of the Insured, are hereinafter referred to as the payees.

II. IF ANY OF THE PAYEES OR ANY CHILD OF ANY OF THE PAYEES SHALL SURVIVE THE INSURED:

The amount payable at the death of the Insured shall be divided into such number of equal parts as shall equal the number of the payees who shall be living at the death of the Insured plus the number of the payees who shall have predeceased the Insured and who shall leave a child or children living at the death of the Insured. One such part shall be apportioned to each then living payee and any remaining part or parts shall be apportioned to The Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee or its successor trustee under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

Any amount apportioned at the death of the Insured to any payee shall be settled by Mode of Settlement (4) with quarterly payments to such payee at the rate of $12. for each $1,000. of the amount apportioned to such payee at the death of the Insured.

Any amount apportioned at the death of the Insured to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee under said trust agreement shall be payable in a single sum.

If any payee shall die during the continuance of said Mode of Settlement (4) and:

(a) If any child of such payee shall be living at the death of such payee, each remaining payment under said Mode of Settlement (4) in favor of such payee and any part of any remaining payment under said Mode of Settlement (4) in favor of any other payee to which such payee became entitled by reason of the death of any other payee shall be apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee or its successor trustee, under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

(b) If no child of such payee shall be living at the death of such payee, each of the remaining payments under said Mode of Settlement (4) in favor of such payee and any part of any remaining payment under said Mode of Settlement (4) in favor of any other payee to which such payee became entitled by reason of the death of any other payee, shall be divided into such number of equal parts as shall equal the number of the other payees who shall be living at the death of such payee plus the number of the other payees who shall have predeceased such payee and who shall leave a child or children living at the death of such payee. One such part shall be apportioned to each then living other payee and any remaining part or parts shall be apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee or its successor trustee under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

The part of each remaining payment under said Mode of Settlement (4) apportioned at the death of any payee to any other payee shall be payable as it becomes due to such other payee, if such other payee shall be living on its due date.

At the death of any payee, such part of the then surrender value of the supplementary contract as shall correspond to the part of each remaining payment under said Mode of Settlement (4) then apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee or its successor trustee under said trust agreement shall be payable in a single sum to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee under said trust agreement, instead of such part of each remaining payment being payable, when due.

If the last survivor of the payees shall die during the continuance of said Mode of Settlement (4) and if no child of any payee shall be living at the death of such last survivor, such settlement shall terminate at the death of such last survivor and the then surrender value of the supplementary contract shall be payable in a single sum to the executors or administrators of such last survivor.

III. IF NONE OF THE PAYEES OR ANY CHILD OF ANY OF THE PAYEES SHALL SURVIVE THE INSURED:

The amount payable at the death of the Insured shall be payable in a single

**Endorsement attached to and forming a part of policy No. 4842,239**

**issued by The Mutual Life Insurance Company of New York.**

MODE OF SETTLEMENT (continued)

sum to the executors or administrators of the last survivor of the payees and the children of the payees.

IV. IT IS AGREED THAT THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK shall not be responsible for any failure of said trustee or successor trustee to perform its duties as trustee, nor for the application or disposition of any moneys paid to such trustee, and payment to such trustee shall fully discharge The Mutual Life Insurance Company of New York for the amount so paid.

[fol. 29]



(see page three)

29

Endorsement attached to and forming a part of policy No. 4842,239.
issued by The Mutual Life Insurance Company of New York.

V. IT IS UNDERSTOOD AND AGREED THAT THE FOLLOWING PROVISIONS SHALL APPLY TO ALL MODES OF SETTLEMENT

Designation of Mode of Settlement

(a) Any Mode of Settlement herein designated by number is the one bearing such number in the provision for Optional Modes of Settlement in this Policy;

Supplementary Contract not Transferable

(b) Unless and except as otherwise provided for herein, neither the supplementary contract nor any benefits accruing thereunder shall be transferable or subject to surrender, commutation, anticipation, or encumbrance, or in any way subject to the debts of any beneficiary or payee, or to legal process except as otherwise provided by law;

Evidence as to Payees

(c) The Company in determining the persons comprising any class mentioned in this Mode of Settlement, the names, addresses, ages, dates of death, or any other facts relating to any beneficiaries or other persons mentioned in this endorsement, either as a class or otherwise, may rely solely on any affidavit or other written evidence deemed satisfactory to it, and in making any payment or taking any action in reliance thereon shall be fully protected; and

Payments at Least $10

(d) If on the due date of any payment under any Mode of Settlement, the total guaranteed payment to any payee under the supplementary contract shall be less than $10, the Company may at its option, change the payments due after such date to the first of the following which shall make each such payment at least $10; viz. quarterly, semi-annual, or annual; the first such quarterly payment being payable three months from such due date, the first such semi-annual payment being payable six months from such due date, or the first such annual payment being payable one year from such due date.

VI IT IS UNDERSTOOD AND AGREED THAT THE FOLLOWING PROVISIONS SHALL APPLY TO THE MODE OF SETTLEMENT SPECIFIED IN THE MARGIN IF SUCH MODE OF SETTLEMENT HAS BEEN ELECTED

Option (1)

(a) If any payee shall die during the continuance of Mode of Settlement (1) in favor of such payee, then at the death of such payee, (a) interest on any part of the principal sum then settled by Mode of Settlement (1) shall continue to be paid on the same due dates as under the Mode of Settlement in favor of such payee, and (b) accrued interest from the date of the last preceding interest payment on any part of the principal sum then payable in a single sum or settled by another Mode of Settlement shall be payable or settled, as the case may be, with such part.

Option (2)

(b) If any payee entitled to Mode of Settlement (2) at the death of the Insured shall die after such death but before receipt at the Home Office of the Company of due proof of such death, settlement shall be made by payment to the same payee or payees and in the same manner as hereinbefore provided for settlement had such payee so dying not survived the Insured.

Option (4)

(c) Unless and except as otherwise provided for herein, if any amount payable under any provision for Double Indemnity shall increase the amount settled by Mode of Settlement (4), it shall not increase the amount of the payments thereunder, but shall be used either: (a) to extend the period during which said Mode of Settlement (4) shall be in effect, or, (b) if, under the provisions of this endorsement, said Mode of Settlement (4) shall terminate before the principal and interest are exhausted, to increase the amount payable on the date of such termination.

Option (4)

(d) In no case shall the total payments in any supplementary contract year under Mode of Settlement (4) be less than the total interest credited thereunder for such year.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, N. Y. April 27th 19 34

Secretary

Countersigned [signature] Registrar

## Section 7. Miscellaneous Provisions.

**Residence and Travel.**—This Policy is free from restrictions as to residence and travel.

**Occupation.**—This Policy is free from restrictions as to occupation.

**Suicide.**—In the event of the self-destruction of the Insured, whether sane or insane, within one year after the date of issue of this Policy, the amount payable shall be limited to an amount equal to the premium paid hereon.

**Incontestability.**—This Policy shall be incontestable after one year from its date of issue unless the Insured dies in such year, in which event it shall be incontestable after two years from its date of issue.

**Misstatement of Age.**—If the age of the Insured shall have been misstated, the amount payable by the Company shall be such as the premium paid would have purchased at the correct age.

**Change of Beneficiary.**—Unless otherwise provided by endorsement on this Policy or unless there be an existing assignment of this Policy other than to the Company, the beneficiary may be changed from time to time, while the Policy is in force, by written notice to the Company at its Home Office accompanied by the Policy for endorsement. Such change shall take effect upon endorsement of the Policy by the Company.

The interest of any beneficiary who dies before the Insured shall vest in the Insured unless otherwise provided in this Policy.

**Rights of the Insured.**—Except as may otherwise be specifically provided in this Policy or by endorsement on this Policy, the Insured may during his lifetime, without the consent and to the exclusion of the beneficiary, receive, exercise, and enjoy every benefit, option, right, and privilege conferred by this Policy or allowed by the Company.

**Policy Settlement.**—All sums payable by the Company under this Policy shall be payable at the Home Office of the Company in the City of New York.

In any settlement of this Policy at its maturity as a death claim or on surrender, any indebtedness to the Company on this Policy shall be deducted and surrender of the Policy to the Company will be required.

**The Contract.**—This Policy and the application, copy of which is attached, constitute the entire contract.

All statements made by the Insured shall, in the absence of fraud, be deemed representations and not warranties, and no statement shall avoid or be used in defence to a claim under this Policy unless contained in the written application and a copy of the application is attached to the Policy when issued.

**Assignment.**—The Company shall not be charged with notice of any assignment of any interest in this contract until the original assignment or a certified copy thereof has been filed with the Company at its Home Office.

The Company assumes no responsibility as to the validity or effect of any assignment.

All assignments shall be subject to any indebtedness to the Company on account of or secured by this Policy.

**Notice.**—No agent or other person except the President, a Vice-President, or a Secretary of the Company has power on behalf of the Company to bind the Company by making any promises respecting benefits or accepting any representations or information not contained in the written application for this Policy, or to make or modify this contract, or to extend the time for payment of the premium, or to waive any forfeiture or any of the Company's rights or requirements.

## Monthly and Annual Instalments for Each $1,000 of Proceeds of Policy under Optional Modes of Settlement 2 and 3

The semi-annual and quarterly instalments are 50.37% and 25.28% respectively of the annual instalment

### OPTION 2

| Number of Years' Instalments | Each Monthly Instalment | Each Annual Instalment |
|---|---|---|
| 2 | $12 86 | $507 39 |
| 3 | 28 99 | 343 23 |
| 4 | 22 06 | 261 19 |
| 5 | 17 91 | 212 00 |
| 6 | 15.14 | 179.22 |
| 7 | 13 16 | 155 83 |
| 8 | 11 68 | 138 31 |
| 9 | 10.53 | 124 69 |
| 10 | 9 61 | 113 82 |
| 11 | 8 86 | 104 93 |
| 12 | 8 24 | 97 54 |
| 13 | 7 71 | 91 29 |
| 14 | 7 26 | 85 95 |
| 15 | 6 87 | 81 33 |
| 16 | 6.53 | 77 29 |
| 17 | 6 23 | 73 74 |
| 18 | 5 96 | 70 59 |
| 19 | 5.73 | 67 78 |
| 20 | 5 51 | 65 26 |
| 21 | 5.32 | 62 98 |
| 22 | 5.15 | 60 92 |
| 23 | 4 99 | 59 04 |
| 24 | 4 84 | 57 33 |
| 25 | 4.71 | 55 76 |
| 26 | 4.59 | 54 31 |
| 27 | 4.47 | 52 98 |
| 28 | 4 37 | 51 74 |
| 29 | 4 27 | 50 60 |
| 30 | 4 18 | 49 53 |

### OPTION 3

| Age of Payee When Proceeds Payable | 5 Years Certain | | 10 Years Certain | | 20 Years Certain | |
|---|---|---|---|---|---|---|
| | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment |
| 10 and under | $3 81 | $44 85 | $3.75 | $44.21 | $3.58 | $42.20 |
| 11 | 3 83 | 45 07 | 3 77 | 44 41 | 3 59 | 42 36 |
| 12 | 3 85 | 45 30 | 3 79 | 44 62 | 3.61 | 42 54 |
| 13 | 3 87 | 45 54 | 3 81 | 44 84 | 3 62 | 42 71 |
| 14 | 3 89 | 45 78 | 3 83 | 45 07 | 3.64 | 42 90 |
| 15 | 3 91 | 46 03 | 3 85 | 45 29 | 3.65 | 43 08 |
| 16 | 3 94 | 46 27 | 3 87 | 45 53 | 3.67 | 43 27 |
| 17 | 3 96 | 46 52 | 3 89 | 45 76 | 3 69 | 43 47 |
| 18 | 3 98 | 46 77 | 3 91 | 45 99 | 3.70 | 43 66 |
| 19 | 4 00 | 47 02 | 3 93 | 46 23 | 3.72 | 43 87 |
| 20 | 4 02 | 47 28 | 3 95 | 46 48 | 3.74 | 44 07 |
| 21 | 4 05 | 47 55 | 3 97 | 46 74 | 3.76 | 44 29 |
| 22 | 4 07 | 47 84 | 4 00 | 47 01 | 3.78 | 44 52 |
| 23 | 4.10 | 48 14 | 4 02 | 47 29 | 3.80 | 44.75 |
| 24 | 4.12 | 48.45 | 4.05 | 47.59 | 3.82 | 45.00 |
| 25 | 4 15 | 48 77 | 4 07 | 47 90 | 3 84 | 45 25 |
| 26 | 4 18 | 49 12 | 4 10 | 48 22 | 3.86 | 45 51 |
| 27 | 4 21 | 49 47 | 4 13 | 48 56 | 3 89 | 45 79 |
| 28 | 4 25 | 49 85 | 4 16 | 48 91 | 3 91 | 46 07 |
| 29 | 4 28 | 50 24 | 4 19 | 49 28 | 3 94 | 46 37 |
| 30 | 4 32 | 50 65 | 4 23 | 49 66 | 3 96 | 46 67 |
| 31 | 4 35 | 51 08 | 4 26 | 50 07 | 3 99 | 46 99 |
| 32 | 4 39 | 51 53 | 4 30 | 50 49 | 4 02 | 47 32 |
| 33 | 4 43 | 52 01 | 4 33 | 50 93 | 4 05 | 47 66 |
| 34 | 4 48 | 52.50 | 4 37 | 51 39 | 4 08 | 48 01 |
| 35 | 4 52 | 53 02 | 4 42 | 51 87 | 4 11 | 48 38 |
| 36 | 4 57 | 53 56 | 4 46 | 52 38 | 4 14 | 48 75 |
| 37 | 4 62 | 54 13 | 4 51 | 52 90 | 4 17 | 49 14 |
| 38 | 4 67 | 54 73 | 4 55 | 53 45 | 4 21 | 49 54 |
| 39 | 4 73 | 55 36 | 4 60 | 54 03 | 4 24 | 49 96 |
| 40 | 4 78 | 56 02 | 4 65 | 54 63 | 4 28 | 50 38 |
| 41 | 4 84 | 56 71 | 4 71 | 55 26 | 4 32 | 50 82 |
| 42 | 4 91 | 57 43 | 4 77 | 55 91 | 4 35 | 51 27 |
| 43 | 4 97 | 58 19 | 4 83 | 56 60 | 4 39 | 51 73 |
| 44 | 5 04 | 58 99 | 4 89 | 57 31 | 4 43 | 52 20 |
| 45 | 5 12 | 59 83 | 4 95 | 58 06 | 4 48 | 52 69 |
| 46 | 5 19 | 60 71 | 5 02 | 58 84 | 4 52 | 53 18 |
| 47 | 5 27 | 61 64 | 5 09 | 59 66 | 4 56 | 53 68 |

| Age of Payee When Proceeds Payable | 5 Years Certain | | 10 Years Certain | | 20 Years Certain | |
|---|---|---|---|---|---|---|
| | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment |
| 48 | $5 36 | $62 61 | $5 17 | $60 51 | $4 60 | $54 20 |
| 49 | 5 45 | 63 63 | 5 24 | 61 40 | 4 65 | 54 71 |
| 50 | 5 54 | 64 70 | 5 32 | 62 33 | 4 69 | 55 24 |
| 51 | 5 64 | 65 83 | 5 41 | 63 30 | 4 74 | 55 77 |
| 52 | 5 74 | 67 02 | 5 49 | 64 30 | 4 78 | 56 30 |
| 53 | 5 85 | 68 26 | 5 58 | 65 35 | 4 83 | 56 84 |
| 54 | 5 97 | 69 57 | 5 68 | 66 44 | 4 87 | 57 37 |
| 55 | 6 09 | 70 95 | 5 78 | 67 57 | 4 92 | 57 90 |
| 56 | 6 22 | 72 40 | 5 88 | 68 75 | 4 96 | 58 43 |
| 57 | 6 35 | 73 93 | 5 98 | 09 98 | 5 00 | 58 95 |
| 58 | 6 49 | 75 53 | 6 09 | 71 24 | 5 05 | 59 46 |
| 59 | 6 64 | 77 22 | 6 21 | 72 55 | 5 09 | 59 96 |
| 60 | 6 80 | 78 99 | 6 32 | 73 91 | 5 13 | 60 45 |
| 61 | 6 96 | 80 85 | 6 44 | 75 31 | 5 17 | 60 92 |
| 62 | 7 13 | 82 81 | 6 57 | 76 75 | 5 20 | 61 37 |
| 63 | 7 31 | 84 87 | 6 70 | 78 23 | 5 24 | 61 80 |
| 64 | 7 51 | 87 03 | 6 83 | 79 75 | 5 27 | 62 20 |
| 65 | 7 71 | 89 31 | 6 96 | 81 30 | 5 30 | 62 59 |
| 66 | 7 92 | 91 69 | 7 09 | 82 89 | 5 33 | 62 94 |
| 67 | 8 14 | 94 29 | 7 23 | 84 50 | 5 36 | 63 27 |
| 68 | 8 37 | 96 81 | 7 37 | 86 14 | 5 38 | 63 57 |
| 69 | 8 61 | 99 56 | 7 51 | 87 79 | 5 40 | 63 84 |
| 70 | 8 86 | 102 45 | 7 65 | 89 46 | 5 42 | 64 08 |
| 71 | 9 13 | 105 44 | 7 79 | 91 12 | 5 42 | 64 08 |
| 72 | 9 40 | 108 57 | 7 93 | 92 79 | 5 42 | 64 08 |
| 73 | 9 69 | 111 84 | 8 07 | 94 44 | 5 42 | 64 08 |
| 74 | 9 99 | 115 25 | 8 21 | 96 00 | 5 42 | 64 08 |
| 75 | 10 30 | 118 78 | 8 34 | 97 65 | 5 42 | 64 08 |
| 76 | 10 62 | 122 44 | 8 47 | 99 21 | 5 42 | 64 08 |
| 77 | 10 95 | 126 22 | 8 59 | 100 71 | 5 42 | 64 08 |
| 78 | 11 29 | 130 13 | 8 71 | 102 14 | 5 42 | 64 08 |
| 79 | 11 64 | 134 14 | 8 82 | 103 51 | 5 42 | 64 08 |
| 80 | 12 00 | 138 25 | 8 92 | 104 80 | 5 42 | 64 08 |
| 81 | 12 36 | 142 44 | 8 92 | 104 80 | 5 42 | 64 08 |
| 82 | 12 73 | 146 70 | 8 92 | 104 80 | 5 42 | 64 08 |
| 83 | 13 09 | 151 00 | 8 92 | 104 80 | 5 42 | 64.08 |
| 84 | 13 46 | 155 34 | 8 92 | 104 80 | 5 42 | 64 08 |
| 85 and over | 13 83 | 159 67 | 8 92 | 104 80 | 5 42 | 64 08 |

DESIGNATION OF BENEFICIARY: Insured's children, Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines, the Fidelity-Philadelphia Trust Company of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company of Philadelphia, Pennsylvania, and the executors or administrators of the last survivor of said children of the Insured and of the children of said children of the Insured, all as provided in Mode of Settlement attached hereto.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, N.Y. April 27, 1934

Secretary

[fol. 31]



## QUESTIONS TO BE ANSWERED BY THE PERSON TO BE INSURED

(Whenever the word "Insured" is used in this application, it shall be construed as meaning "the person whose life is proposed for insurance".)

THIS APPLICATION is made to THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK herein called the Company. All the following statements and answers, and all those that the Insured makes to the Company's Medical Examiner, as a part of this application, are true, and are offered to the Company as an inducement to issue the proposed policy. (The Insured expressly waives on behalf of himself or herself and of any person who shall have or claim any interest in any policy issued hereunder, all provisions of law forbidding any physician or other person who has attended or examined, or who may hereafter attend or examine the Insured, from disclosing any knowledge or information which he thereby acquired.) The proposed policy shall not take effect unless and until delivered to and received by the Insured, the Beneficiary or by the person who herein agrees to pay the premiums, during the Insured's continuance in good health and unless and until the first premium shall have been paid during the Insured's continuance in good health; except in case a conditional receipt shall have been issued as hereinafter provided.

Name in full of Insured:
Given Name, Middle Name (If any) and Surname (Print Plainly) Mary H Haines

For H. O. Use APR 3124

1. RESIDENCE OF INSURED — PERIOD Yrs. / Mos.

Street and No. 156 School Lane
Town, City or Village Philadelphia
or ... miles in a ... direction
from ... on R. F. D. No. ...
County Philadelphia
State or Province Penna
Former residences as above

Business address of Insured 156 School Lane Phila — Yrs. 40
Name of firm or employer of Insured no employed
Nature of business of Insured ... so engaged ... yrs. ... mos.
Present occupation and duties of Insured At Home
Other occupations of Insured are: (If none, state None) no other
Former occupations of Insured: (If none, state None)
Nature Home Wife Place 156 School Lane Phila Pa

Place of birth of Insured Coatesville Town or City Penna State or Country
Date of birth of Insured April 7th day of Mar 1858
Age of Insured nearest birthday 76 Sex Female
Citizen of U S A
Send all communications To 156 School Lane
P. O. Address Philadelphia Pa

2. The Insured does not contemplate either (a) going to a foreign or tropical country, or (b) changing his occupation. no

3. The Insured has not made, nor does he contemplate making aviation flights, or aeronautical ascensions. (If any exceptions furnish regular aviation form.) no

4. No negotiations for other insurance on the life of the Insured, nor any application for reinstatement of insurance on the life of the Insured, are now pending or contemplated. yes

5. No application or examination for life insurance on the life of the Insured has ever been declined or postponed by any company or association, nor has any company offered a policy differing in plan, amount or premium from that applied for. no

Exceptions to 2, 3, 4 and 5, to be noted in No. 6.

6. Details of Exceptions to Questions, 2, 3, 4, 5. (If none, state None) 2, 3, 5 no application for insurance amount to Two other cos total $600 000

7. The following is all the insurance now in force on the Insured's life: (If none, state None)

| Name of Company or Association | Amount |
|---|---|
| Mutual Life | 50000 |

8. (To be answered if Waiver of Premium applied for.) The total amount of disability income in all companies payable in the event of disability is $ ... annually.

9. (a) Amount $ 300 000 00 (b) Premiums Single — annually — Answer YES, NO

10. Plan (State fully) Life (Single Premium) — Waiver of Premium no — Double Indemnity no

11. It is agreed that if the Company is unwilling to issue a policy for plan and amount applied for, this application shall be for such plan and amount as may be issued by the Company.

12. If Beneficiary predeceases Insured policy will be payable to Insured's estate unless otherwise herein specified or unless Beneficiary be Creditor or Partner. If Endowment state payee at maturity as Endowment
(a) Name (in full) of Beneficiary If a corporation give head office and state of incorporation Isabella H Miller, Robert B Haines Margaret H Haines Charles H Haines children if living under wills
(b) P. O. Address of Settlement 4 Trust Co Letters 2/2/24 and 3/5/34
(c) Relationship to the Insured or Insurable Interest Children & Grandchildren

13. All benefits, options, rights, and privileges conferred by the policy or allowed by Company, including the right to change Beneficiary are reserved to Beneficiary except right to ... (Insert right) ... is reserved to Beneficiary (Insert Insured or Beneficiary)

14. $ ... in cash has been paid to the Soliciting Agent and a conditional receipt No. ..., dated ..., signed by the Secretary of the Company, and countersigned by the agent has been issued making the insurance in force from such date, provided this application shall be approved.

15. Will any insurance issued under this application replace in whole or in part, insurance in this or any other Company? no (Answer YES or NO. If yes, give details)

It is agreed that in the event of the self-destruction of the Insured whether sane or insane during the first year following the date of issue of the policy hereby applied for the Company's liability shall be limited to the amount of the premiums paid. It is agreed that no Agent or other person except the President, a Vice-President, or a Secretary of the Company has power on behalf of the Company to bind the Company by making any promises respecting benefits under any policy issued hereunder or accepting any representations or information not contained in this application, or to make, or modify any contract of insurance, or to extend the time for payment of a premium, or to waive any lapse or forfeiture or any of the Company's rights or requirements.

This application is made at the instance and request of the undersigned, who, it is agreed, will pay all premiums out of his, her or its funds, and who ratifies the representations, statements, answers and agreements contained in such application and in the statements to Medical Examiner.

Signature in full of Insured Mary H Haines
Dated at Phila Pa on 4/5 1934
Signature of Parent or Guardian ... I consent to the above application:
(Required if Insured a minor under age 15)
I have known the Insured for ... years and saw ... sign this application.
So far as known to me any insurance issued under this application will not replace in whole or part insurance in this or any other Company.

Signature in full of person or persons who will pay the premiums
(If a corporation, an officer other than Insured to sign for corporation, WITH TITLE.)

(Foregoing to be executed only when the application is made at the instance and request of some one other than the person to be insured and who will pay the premiums.)

... Soliciting Agent.

Upon request the policy may be antedated for a period not to exceed six months from date of examination unless prohibited by law.

Rider Form XI-A—Ed. 3-43

M. C. H. JT 6-14-44 tf-2

Rider attached to and forming a part of Policy No. 4842239 on the life of Mary H. Haines issued by THE MUTUAL LIFE INSURANCE COMPANY of NEW YORK.

## DESIGNATION OF BENEFICIARY, INCOME SETTLEMENT, AND RIGHTS UNDER POLICY

The persons designated under "Beneficiary for all Funds" will become entitled in the order and proportions stated below to each of the Funds defined in this rider, if living when each such Fund becomes payable, and each such Fund will be settled as provided below.

BENEFICIARY FOR ALL FUNDS at the time designated

Upon receipt of due proof of the Insured's death:

One-fourth of such Funds to the Insured's daughter, Margaret W. Haines, if living, if not, to such of the children of said Margaret W. Haines as shall be living, share and share alike, or if none is living, to the Insured's other children, Robert B. Haines, 3rd, Charles H. Haines, and Isabelle H. Miller, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Robert B. Haines, 3rd, if living, if not, to such of the children of said Robert B. Haines, 3rd as shall be living, share and share alike, or if none is living, to Mary T. Haines, spouse of said Robert B. Haines, 3rd, if living if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Charles H. Haines, if living, if not, to such of the children of said Charles H. Haines as shall be living, share and share alike, or if none is living, to Margery Speakman Haines, spouse of said Charles H. Haines, if living, if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Isabelle H. Miller, if living, if not, to such of the children of said Isabelle H. Miller as shall be living, share and share alike, or if none is living, to William McE. Miller, spouse of said Isabelle H. Miller, if living, if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

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At the death, during Option 3, of each of said children of the Insured:

Such of the children of such child of the Insured as shall be living, share and share alike, or if none is living, the above-named spouse, if any, of such child of the Insured, if such spouse is living, if not living or if no spouse of such child of the Insured is named above, the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the

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(see next page of this rider)

Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, the executors or administrators of such child of the Insured.

At the death of each child of any of said children of the Insured during Option 3:

Such of the other children of such child of the Insured as shall be living, share and share alike, or if no other child of such child of the Insured is living, to the above-named spouse, if any, of such child of the Insured, if such spouse is living, if not living or if no spouse of such child of the Insured is named above, the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, the executors or administrators of such child of such child of the Insured.

At the death, during Option 3, of each or said Mary T. Haines, said Margery Speakman Haines and said William McE. Miller:

The others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share, divided equally. If none is living, the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

Settlement of any Part of the Funds to which each of said children of the Insured becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 3 with monthly payments and with twenty years certain.

At any other time:

Single sum.

Settlement of any Part of the Funds to which each child of each of said children of the Insured becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 3 with monthly payments and with twenty years certain.

At the death, during Option 3, of the one of said children of the Insured who is a parent of such child; or at the death, during Option 3, of each other child of such child of the Insured:

Remaining payments shall be payable when due.

At any other time:

Single sum.

Settlement of Any Part of the Funds to which each of said Mary T. Haines, said Margery Speakman Haines and said William McE. Miller becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 3 with monthly payments and with twenty years certain.

At the death, during Option 3, of the one of said children of the Insured who is a spouse of such beneficiary; or at the death, during Option 3, of any child of such child of the Insured:

Remaining payments shall be payable when due.

(see next page of this rider)

Settlement of any Part of the Funds to which any other beneficiary becomes entitled at the time designated

At any time:
Single sum.

[fol. 35]

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(see next page of this rider)

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**Page 4 of Designation of Beneficiary, Income Settlement, and Rights under Policy, for Policy No.** 4842239

**The provisions of this rider together with the provisions of the section, if any, of this Policy providing for Income Settlement Options, Modes of Settlement, or Optional Modes of Settlement constitute the entire income settlement arrangement elected for this Policy, unless otherwise specifically stated in the preceding pages of this rider.**

**The following provisions will supplement and modify the provisions on the preceding pages of this rider, unless otherwise specifically stated in such preceding provisions or unless inconsistent with such preceding provisions:**

**DEFINITION OF FUNDS** — **The Funds referred to in this rider are:**

**(a) The proceeds payable upon receipt at the Company's Home Office of due proof of the Insured's death.**

**(b) The principal sum under Option 1 or the unpaid principal and interest under Option 4, remaining at a beneficiary's death, if such Option was in settlement of any part of a Fund to which such beneficiary had become entitled.**

**(c) Any payments for the period specified for Option 2 or period certain for Option 3 to which a beneficiary had become entitled and which remain unpaid at such beneficiary's death. At such death the commuted value, based on the annual interest rate provided for Option 1, of such future payments will be paid in a single sum.**

**DEATH OF BENEFICIARY** — **If no beneficiary is living upon receipt at the Home Office of due proof of the Insured's death, the proceeds will be payable in a single sum to the executors or administrators of the Insured. The amount payable at the death of a beneficiary will be the Fund provided for in (b) or (c) of "Definition of Funds". The Fund payable at the death of the last survivor of the beneficiaries will be payable in a single sum to the executors or administrators of such last survivor.**

**SUPPLEMENTARY CONTRACT NOT TRANSFERABLE** — **Neither the supplementary contract nor any of its benefits will be transferable or subject to surrender or anticipation, or to the debts of any person or to legal process, except as otherwise provided by law.**

**ACCRUED INTEREST UNDER OPTION 1** — **On any principal sum under Option 1 at a beneficiary's death which will then be settled by Option 1, interest will continue to be paid on the same due dates, the first payment after such death including accrued interest from the last due date preceding death. With any part of the principal sum payable in a single sum or settled by another Option at the termination of Option 1, accrued interest from the last due date will be payable, or settled, as the case may be.**

**EFFECT OF DOUBLE INDEMNITY ON OPTION 4** — **Any amount payable under any Double Indemnity provision will not change the amount of each payment under Option 4 but will increase the period of payments or amount payable upon termination of such option.**

**The following provisions will always supplement and modify the provisions on the preceding pages of this rider:**

**AMOUNT TO BE SETTLED** — **The settlement provided for in this rider will be effective for any amount payable even though such amount may be less than the face amount of this Policy, any policy provision for a single sum to the contrary notwithstanding. The proceeds referred to above will include the proceeds of any Double Indemnity provision issued in connection with the policy.**

**SURRENDER OR WITHDRAWAL OR AUTOMATIC TERMINATION** — **If a right of withdrawal is provided for, no withdrawal of less than $250. may be made. Upon each withdrawal or upon any automatic payment or other settlement of any part of the principal sum under Option 1, the corresponding part of Option 1 will terminate and if any balance under Option 1 would be less than $1000. payment or settlement of all of such principal sum will be made at such time. Under Option 4, withdrawals will decrease the period of payment but will not change the amount of each periodical payment. Any right of withdrawal or surrender will be exercised by written notice to the Company at its Home Office, accompanied by the supplementary contract. If the policy or this rider provides for deferment of the surrender value of the supplementary contract, such provision will apply to withdrawals.**

**THIRTY YEAR LIMITATION ON DURATION OF SETTLEMENT** — **No option will begin or continue after the end of thirty years from the date of the supplementary contract unless it is payable to the beneficiary entitled upon receipt of due proof of the Insured's death to the part of the proceeds settled by such option or unless it is Option 3 and the beneficiary whose age determines the amount of income is living. If any option terminates at the end of such thirty years or at the later death of a beneficiary designated in the preceding sentence, the then remaining principal sum and interest, if the terminated option is Option 1 or 4, or the then commuted value, based on the annual interest rate provided for Option 1, if the terminated option is Option 2 or 3 will be payable in a single sum to the beneficiary who received the last income payment or if such beneficiary is not then living to the other beneficiaries as provided for herein.**

**CHILDREN OF A BENEFICIARY** — **If provision is made under "Beneficiary for all Funds" that the living children of a deceased beneficiary will take such beneficiary's share and if such beneficiary dies during the settlement of such beneficiary's share of a Fund, any living children of such beneficiary will take all of the Fund provided for in (b) or (c) of "Definition of Funds" at such beneficiary's death, divided equally.**

**PAYMENTS AT LEAST $10.** — **If any payment requested for any beneficiary is less than $10., the periodical payments may be adjusted to payments to each beneficiary in amounts not less than $10. If annual payments to each beneficiary are less than $10., payment may be made in a single sum.**



(See other side of this sheet)

**INTEREST MORE OFTEN THAN ANNUALLY UNDER OPTION 1**

If the policy provides under Option 1 for annual interest only, each guaranteed monthly, quarterly, or semi-annual interest payment will be $2.47, $7.43, or $14.90, respectively, per $1000.

**PAYMENT TO TRUSTEE**

If this rider provides for payment to any trustee, the Company will not be responsible for any failure of the trustee to perform such trustee's duties as trustee, nor for the application or disposition of any money paid to such trustee and payment to such trustee will fully discharge the Company for the amount so paid.

**EVIDENCE AS TO FACTS**

The Company, in determining the name, date of death, or other facts relating to any person, may rely solely on any written evidence satisfactory to it, and, in making any payment in reliance thereon, will be fully protected.

**CHANGE OF BENEFICIARY**

Any subsequent change of beneficiary will revoke this designation.

**RIGHTS UNDER POLICY**

During the lifetime of the Insured the right to change the beneficiary and all other rights, benefits, options, and privileges conferred by this Policy or allowed by the Company, including any endowment proceeds, belong exclusively to said children of the Insured, jointly the survivors or survivor, or if none is living, to the children of said children of the Insured, jointly, the survivors or survivor, or if none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

Effective as of NOV 26 1944 Recorded and signed at New York, N. Y.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Willard V. Johns
Secretary

[fol. 38] IN UNITED STATES DISTRICT COURT

EXHIBIT B TO STIPULATION OF FACTS

199 S
Life—Single Premium
January, 1932

Philadelphia

No. 4,385,336

# The Mutual Life Insurance Company of New York

ANNUAL DIVIDEND
SINGLE PREMIUM LIFE POLICY

On the Life of

Mary H. Haines

Amount, $ 100000.

Date, October 10th 19 34

Single Premium, $ 90642.00

Policy No. 4,885,836 Amount, $ 10000. Page 1

# THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

(First Policy issued February 1st, 1843)

Notice has been received that the name of Robert B.Haines one of the beneficiaries hereunder is Robert B. Haines instead of as herein stated.
The Mutual Life Insurance Co.
New York,N.Y. May 29, 19[illegible]
Secretary.

## WILL PAY

to the Insured's beneficiaries specified in the "Designation of Beneficiary" clause endorsed on page 2 hereof, the Beneficiary,

DEATH BENEFIT ONE HUNDRED THOUSAND Dollars.
(Face Amount of this Policy)

upon receipt of due proof of the death

of Mary H. Haines, the Insured.

[fol. 39]

This Policy also provides for

GENERAL PROVISIONS

Optional Modes of Settlement (Section 1),
Annual Dividends (Section 2),
Loans (Section 3),
Cash Value (Section 4).

This Policy is issued in consideration of the application and of the payment of the single premium of

SINGLE PREMIUM NINETY THOUSAND SIX HUNDRED FORTY TWO Dollars.

When the premium on this Policy is paid to the Company, it will be acknowledged either by a receipt signed by the Treasurer and countersigned by the Agency Cashier, or by endorsement on the Policy by the Company at its Home Office. Possession of this Policy is not otherwise evidence of the payment of such premium.

The succeeding pages 2 and 3 of this Policy are a part of this contract.

**In Witness Whereof,** the Company has caused this Policy to be executed this Tenth day of October 19 34.

L.S. [signature] Secretary.

David F. Houston. President.

Countersigned [signature] Registrar.

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33-37
SINGLE PREMIUM LIFE

AMOUNT OF INSURANCE PAYABLE AT DEATH ANNUAL DIVIDENDS SINGLE PREMIUM

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**Section 1. Optional Modes of Settlement.**

The proceeds of this Policy, upon maturity as a death claim or upon surrender, as the case may be, may, if so elected, be settled by one of the following optional Modes of Settlement instead of being paid in one sum:—

Option 1.—By the Company's holding the proceeds as a principal sum payable at the death of the payee, the Company meanwhile paying monthly interest (with a final interest payment to the date of such death) at three per cent a year plus participation in excess interest at such rate as the Company may determine for each year;

Option 2.—By payment of equal monthly instalments for the number of years elected, in accordance with the table on page 3. Instalments will be increased by participation in excess interest over three per cent a year at such rate as the Company may determine for each year;

Option 3.—By payment of equal monthly instalments for five, ten, or twenty years certain, as elected, and for the remaining lifetime of the payee, in accordance with the table on page 3. Instalments for the period certain will be increased by participation in excess interest over three per cent a year at such rate as the Company may determine for each year;

Option 4.—By payment of equal monthly instalments of the amount specified in the election as long as the proceeds, together with interest thereon as provided for in Option 1, shall suffice, with a final payment of any balance less than one such instalment.

Under Option 1 the first interest payment will be due at the end of one month from the date when the proceeds become payable. Under Options 2, 3, and 4 the first instalment will be due when the proceeds become payable.

Note.—If requested in the election, payment of interest under Option 1 or of instalments under Option 2, 3, or 4 will be made quarterly, semi-annually, or annually instead of monthly. The first payment of interest under Option 1 will be due at the end of three months, six months, or one year according as interest payments are quarterly, semi-annual, or annual. The first instalment under Option 2, 3, or 4 will in all cases be due when the proceeds become payable.

Method of Election.—An optional Mode of Settlement can be elected, or a previous election revoked or changed, only by written notice to the Company at its Home Office accompanied by the Policy for endorsement.

Note.—When a payee becomes entitled to a single sum, he may elect one of these options.

General Provisions.—Joint or contingent payees may be named under the above options within such limitations as may be prescribed by the Company, except that under Option 3 there cannot be joint payees and the instalments to contingent payees will not be payable beyond the period certain.

These optional Modes of Settlement are not available if a corporation, association, partnership, or estate is the payee, nor if the guaranteed interest payments or instalments will, irrespective of dividends or indebtedness, be less than $10 each.

If any of the above options has been elected, a supplementary contract bearing the date on which the proceeds of the Policy become payable and providing for the settlement elected will be issued.

Surrender or Transfer of Supplementary Contract.—Unless otherwise specified in the election, neither the supplementary contract nor any of the benefits accruing thereunder shall be transferable or subject to surrender, commutation, or encumbrance, except that at the death of the last surviving payee the then surrender value as defined below shall be payable to the executors or administrators of such payee.

The surrender value of the supplementary contract shall be as follows:

Option 1.—The principal sum with any accrued interest;

Options 2 and 3.—The commuted value, computed at three per cent interest compounded annually, of future instalments certain. Under Option 3 no such surrender may be made during the lifetime of the original payee;

Option 4.—Such part of the proceeds of the Policy and interest thereon as shall not have been paid in instalments.

**Section 2. Annual Dividends.**

The share of the divisible surplus accruing on this Policy shall be allotted as a dividend annually on each anniversary of its date.

Each such dividend may be either:—

1. Used to purchase a paid-up participating addition to the sum insured, herein called dividend addition, which shall be automatically added on the date of allotment and will continue in force unless and until one of the other options be duly elected; or,

2. Paid in cash; or,

3. Deposited with the Company at interest within ninety days from date of allotment (called dividend deposit). Interest will be credited at such rate as may be determined by the Company, but never less than three per cent a year, and will be added to existing dividend deposits annually. Dividend deposits existing at the death of the Insured shall be then payable to the beneficiary.

At any time any dividend additions may be surrendered for the full reserve thereon or any accumulated dividend deposits may be withdrawn.

Post Mortem Dividend.—Upon the death of the Insured a cash dividend will be credited to this Policy for the fraction of the policy year elapsed before such death.

**Section 3. Loans.**

At any time while this Policy is in force, the Company will, upon receipt of the Policy and a loan agreement satisfactory to the Company and on the sole security of this Policy, loan an amount which with interest shall be within the limit of the cash value of this Policy on the due date of the loan.

Any existing indebtedness to the Company on the Policy shall be paid out of such loan.

Interest on the loan shall be at the rate of six per cent a year payable on the due date of the loan provided for in the loan agreement and on each anniversary of the date of the Policy thereafter. If this interest is not paid when due it shall be added to the existing loan and bear interest at the same rate. Failure to repay the loan or pay interest shall not avoid the Policy unless the total indebtedness, including accrued interest, shall equal or exceed the cash value of the Policy, in which case the Policy shall become void thirty-one days after notice shall have been mailed to the Insured and any assignee of record at the Home Office of the Company at their last known addresses.

The loan, with accrued interest, or any part thereof not less than $10, may be repaid at any time prior to the date when due.

**Section 4. Cash Value.**

At any time after this Policy shall have been one year in force, this Policy may be surrendered for its net cash value. Such net cash value shall be the cash value as defined below less any indebtedness to the Company hereon.

The cash value at any time shall be the reserve at such time for the face amount of this Policy and for any dividend additions hereto increased by any accumulated dividend deposits and less a surrender charge of not more than two per cent of the face amount of this Policy.

After the Policy has been ten years in force there shall be no surrender charge.

**Section 5. Table of Cash and Loan Values.**

These values are computed in accordance with the provisions of Sections 3 and 4 and are on the assumption that there are no dividends or indebtedness.

Any dividend additions or dividend deposits will increase such values and any indebtedness to the Company on this Policy will decrease such values as provided in the above mentioned sections.

Values for intermediate periods will be calculated as provided in Sections 3 and 4.

| At End of Policy Year | FOR EACH $1,000 FACE AMOUNT Cash Value (Also Loan Value as Explained in Section 3) | At End of Policy Year | FOR EACH $1,000 FACE AMOUNT Cash Value (Also Loan Value as Explained in Section 3) |
|---|---|---|---|
| 1 | $831.30 | 14 | $951.58 |
| 2 | 842.99 | 15 | 957.49 |
| 3 | 854.06 | 16 | 962.31 |
| 4 | 864.92 | 17 | 966.33 |
| 5 | 875.60 | 18 | 970.87 |
| 6 | 883.63 | 19 | XXXXXX |
| 7 | 894.09 | 20 | |
| 8 | 904.51 | 21 | |
| 9 | 914.82 | 22 | |
| 10 | 924.88 | 23 | |
| 11 | 932.02 | 24 | |
| 12 | 938.75 | 25 | |
| 13 | 945.23 | 30 | |

NOTE.—The loan value stated in the above table for the end of a policy year will, less interest, be available during such year as provided in Section 3.

**Section 6. Reserves.**

The reserve held for the face amount of this Policy and for any dividend additions, and the reserves mentioned in this Policy shall be computed in accordance with the American Experience Table of Mortality assuming interest at the rate of three per cent a year.

DESIGNATION OF BENEFICIARY: The Insured's children, Isabella H. Miller, Margaret W. Haines Robert B. Haines and Charles H. Haines, the Fidelity-Philadelphia Trust Company of Philadelphia, Pennsylvania, as trustee, or its successor trustee under a trust agreement dated May 8th 1934, made by and between the Insured and said Fidelity-Philadelphia Trust Company of Philadelphia, Pennsylvania, and the executors, or administrators of the last survivor of said children of the Insured and of the children of said children of the Insured, all as provided in the Mode of Settlement attached hereto.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, N.Y. October 10th 1934

Secretary.

**Endorsement attached to and forming a part of policy No. 4,885,836**
**issued by The Mutual Life Insurance Company of New York.**

# Mode of Settlement.

It is agreed
~~The insured has elected~~ that if this policy matures as a claim by death, settlement of the amount payable shall be made as follows, provided, however, that any change of beneficiary hereunder shall constitute a revocation of this election of Mode of Settlement:

I. PAYEES:

Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines, children of the Insured, are hereinafter referred to as the payees.

II. IF ANY OF THE PAYEES OR ANY CHILD OF ANY OF THE PAYEES SHALL SURVIVE THE INSURED:

The amount payable at the death of the Insured shall be divided into such number of equal parts as shall equal the number of the payees who shall be living at the death of the Insured plus the number of the payees who shall have predeceased the Insured and who shall leave a child or children living at the death of the Insured. One such part shall be apportioned to each then living payee and any remaining part or parts shall be apportioned to The Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee or its successor trustee under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

Any amount apportioned at the death of the Insured to any payee shall be settled by Mode of Settlement (4) with quarterly payments to such payee at the rate of $12. for each $1,000 of the amount apportioned to such payee at the death of the Insured.

Any amount apportioned at the death of the Insured to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under said trust agreement, shall be payable in a single sum.

If any payee shall die during the continuance of said Mode of Settlement (4) and :

(a) If any child of such payee shall be living at the death of such payee, each remaining payment under said Mode of Settlement (4) in favor of such payee and any part of any remaining payment under said Mode of Settlement (4) in favor of any other payee to which such payee became entitled by reason of the death of any other payee shall be apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under a trust agreement dated May 8, 1934 made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

(b) If no child of such payee shall be living at the death of such payee, each of the remaining payments under said Mode of Settlement (4) in favor of such payee and any part of any remaining payment under said Mode of Settlement (4) in favor of any other payee to which such payee became entitled by reason of the death of any other payee, shall be divided into such number of equal parts as shall equal the number of the other payees who shall be living at the death of such payee plus the number of the other payees who shall have predeceased such payee and who shall leave a child or children living at the death of such payee. One such part shall be apportioned to each then living other payee and any remaining part or parts shall be apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under a trust agreement dated May 8, 1934, made by and between the Insured and said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania.

The part of each remaining payment under said Mode of Settlement (4) apportioned at the death of any payee to any other payee shall be payable, as it becomes due, to such other payee, if such other payee shall be living on its due date.

At the death of any payee, such part of the then surrender value of the supplementary contract as shall correspond to the part of each remaining payment under said Mode of Settlement (4) then apportioned to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under said trust agreement, shall be payable in a single sum to said Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, as trustee, or its successor trustee, under said trust agreement, instead of such part of each remaining payment being payable when due.

If the last survivor of the payees shall die during the continuance of said Mode of Settlement (4) and if no child of any payee shall be living at the death of such last survivor, such settlement shall terminate at the death of such last survivor and the then surrender value of the supplementary contract shall be payable in a single sum to the executors or administrators of such last survivor.

[fol. 41]

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**Endorsement attached to and forming a part of policy No. 4,885,836**
**issued by The Mutual Life Insurance Company of New York.**

MODE OF SETTLEMENT (cont'd)

III. IF NONE OF THE PAYEES NOR ANY CHILD OF ANY OF THE PAYEES SHALL SURVIVE THE INSURED:

The amount payable at the death of the Insured shall be payable in a single sum to the executors or administrators of the last survivor of the payees and the children of the payees.

IV. IT IS AGREED THAT THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK shall not be responsible for any failure of said trustee or successor trustee to perform its duties as trustee, nor for the application or disposition of any moneys paid to such trustee, and payment to such trustee shall fully discharge The Mutual Life Insurance Company of New York for the amount so paid.

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(see page three)

**Endorsement attached to and forming a part of policy No. 4,885,836**
**issued by The Mutual Life Insurance Company of New York.**

V. **IT IS UNDERSTOOD AND AGREED THAT THE FOLLOWING PROVISIONS SHALL APPLY TO ALL MODES OF SETTLEMENT**

**Designation of Mode of Settlement**

(a) Any Mode of Settlement herein designated by number is the one bearing such number in the provision for Optional Modes of Settlement in this Policy;

**Supplementary Contract not Transferable**

(b) Unless and except as otherwise provided for herein, neither the supplementary contract nor any benefits accruing thereunder shall be transferable or subject to surrender, commutation, anticipation, or encumbrance, or in any way subject to the debts of any beneficiary or payee, or to legal process except as otherwise provided by law;

**Evidence as to Payee**

(c) The Company in determining the persons comprising any class mentioned in this Mode of Settlement, the names, addresses, ages, dates of death, or any other facts relating to any beneficiaries or other persons mentioned in this endorsement, either as a class or otherwise, may rely solely on any affidavit or other written evidence deemed satisfactory to it, and in making any payment or taking any action in reliance thereon shall be fully protected; and

**Payments at Least $10**

(d) If on the due date of any payment under any Mode of Settlement, the total guaranteed payment to any payee under the supplementary contract shall be less than $10, the Company may at its option, change the payments due after such date to the first of the following which shall make each such payment at least $10; viz, quarterly, semi-annual, or annual; the first such quarterly payment being payable three months from such due date, the first such semi-annual payment being payable six months from such due date, or the first such annual payment being payable one year from such due date.

VI. **IT IS UNDERSTOOD AND AGREED THAT THE FOLLOWING PROVISIONS SHALL APPLY TO THE MODE OF SETTLEMENT SPECIFIED IN THE MARGIN IF SUCH MODE OF SETTLEMENT HAS BEEN ELECTED**

[fol. 43]

**Option (1)**

(a) If any payee shall die during the continuance of Mode of Settlement (1) in favor of such payee, then at the death of such payee, (a) interest on any part of the principal sum then settled by Mode of Settlement (1) shall continue to be paid on the same due dates as under the Mode of Settlement in favor of such payee, and (b) accrued interest from the date of the last preceding interest payment on any part of the principal sum then payable in a single sum or settled by another Mode of Settlement shall be payable or settled, as the case may be, with such part.

**Option (2)**

(b) If any payee entitled to Mode of Settlement (2) at the death of the Insured shall die after such death but before receipt at the Home Office of the Company of due proof of such death, settlement shall be made by payment to the same payee or payees and in the same manner as hereinbefore provided for settlement had such payee so dying not survived the Insured.

**Option (4)**

(c) Unless and except as otherwise provided for herein, if any amount payable under any provision for Double Indemnity shall increase the amount settled by Mode of Settlement (4), it shall not increase the amount of the payments thereunder, but shall be used either: (a) to extend the period during which said Mode of Settlement (4) shall be in effect, or, (b) if, under the provisions of this endorsement, said Mode of Settlement (4) shall terminate before the principal and interest are exhausted, to increase the amount payable on the date of such termination.

**Option (4)**

(d) In no case shall the total payments in any supplementary contract year under Mode of Settlement (4) be less than the total interest credited thereunder for such year.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, N. Y. October 10th 19 24

Secretary

Countersigned Registrar

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43.

**QUESTIONS TO BE ANSWERED BY THE PERSON TO BE INSURED**

(Whenever the word "Insured" is used in this application, it shall be construed as meaning "the person whose life is proposed for insurance".)

THIS APPLICATION is made to THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK herein called the Company. All the following statements and answers, and all those that the Insured makes to the Company's Medical Examiner, as a part of this application, are true, and are offered to the Company as an inducement to issue the proposed policy. (The insured expressly waives on behalf of himself or herself and of any person who shall have or claim any interest in any policy issued hereunder, all provisions of law forbidding any physician or other person who has attended or examined, or who may hereafter attend or examine the Insured, from disclosing any knowledge or information which he thereby acquired.) The proposed policy shall not take effect unless and until delivered to and received by the Insured, the Beneficiary or by the person who herein agrees to pay the premiums, during the Insured's continuance in good health and unless and until the first premium shall have been paid during the Insured's continuance in good health; except in case a conditional receipt shall have been issued as hereinafter provided.

Name in full of Insured:
Given Name, Middle Name (if any) and Surname (Print Plainly) Mary H Haines

1. RESIDENCE OF INSURED — PERIOD Yrs. Mos.

Street and No. 156 School Lane — 40
Town, City or Village Phila Philadelphia
or ... miles in a ... direction
from ... on R. F. D. No. ...
County Philadelphia
State or Province Penna
Former residences reason

Business address of Insured 156 School Lane Phila
Name of firm or employer of Insured no employed
Nature of business of Insured ... so engaged ... yrs. ... mos.
Present occupation and duties of Insured At Home
Other occupations of Insured are: (If none, state None) no other
Former occupations of Insured: (If none, state None)
Nature Home as Wife Place 156 School Lane Phila Pa

Place of birth of Insured Penn (State or C...)
Date of birth of Insured 11 9 (day of) ... 18...
Age of Insured nearest birthday ...
Send all communications
To 156 Sc...
P. O. Address ...

2. The Insured does not contemplate either (a) going to a foreign or tropical country, or (b) changing his occupation. no

3. The Insured has not made, nor does he contemplate making aviation flights, or aeronautical ascensions. (If any exceptions furnish regular aviation form.) no

4. No negotiations for other insurance on the life of the Insured, nor any application for reinstatement of insurance on the life of the Insured, are now pending or contemplated. yes

5. No application or examination for life insurance on the life of the Insured has ever been declined or postponed by any company or association, nor has any company offered a policy differing in plan, amount or premium from that applied for. no

Exceptions to 2, 3, 4 and 5, to be noted in No. 6.

6. Details of Exceptions to Questions, 2, 3, 4, 5. (If none, state None) 2, 3 & 5 have application for insurance amount to Two other Co's Total $600 000

7. The following is all the insurance now in force on the Insured's life: (If none, state None).

| Name of Company or Association | Amount |
|---|---|
| Mutual Life | 50000 |

8. (To be answered if Waiver of Premium applied for.) The total amount of disability income in all companies payable in the event of disability is $ ... annually.

9. (a) Amount $ 300 000 00 (b) Premiums Single

10. Plan (State fully) Life (Single Premium)

Answer YES, NO — Waiver of Premium no — Double Indemnity no

11. It is agreed that if the Company is unwilling to issue a policy for plan and amount applied for, this application shall be for such plan and amount as may be issued by the Company.

12. If Beneficiary predeceases Insured policy will be payable to Insured's estate unless otherwise herein specified or unless Beneficiary be Creditor or Partner. If Endowment payee at maturity is Endowment
(a) Name (in full) of Beneficiary If a corporation give head office and state of incorporation Isabella H Miller, Robert B Haines Margaret H Haines Charles H Haines children if living surviving wife
(b) P. O. Address of Settlement & Referred to Letters 2/8/34 and 3/6/34
(c) Relationship to the Insured or Insurable Interest Children & Grandchildren

13. All benefits, options, rights, and privileges conferred by the policy or allowed by Company, including the right to change Beneficiary are reserved to Beneficiary except right to ... (Insert right) ... is reserved to Beneficiary. (Insert Insured or Beneficiary) (Insert Insured or Beneficiary)

14. $ ... in cash has been paid to the Soliciting Agent and a conditional receipt No. ..., dated ..., signed by the Secretary of the Company, and countersigned by the agent has been issued making the insurance in force from such date, provided this application shall be approved.

15. Will any insurance issued under this application replace in whole or in part, insurance in this or any other Company? no (Answer YES or NO. If yes, give details)

It is agreed that in the event of the self-destruction of the Insured whether sane or insane during the first year following the date of issue of the policy hereby applied for the Company's liability shall be limited to the amount of the premiums paid. It is agreed that no Agent or other person except the President, a Vice-President, or a Secretary of the Company has power on behalf of the Company to bind the Company by making any promises respecting benefits under any policy issued hereunder or accepting any representations or information not contained in this application, or to make, or modify any contract of insurance, or to extend the time for payment of a premium, or to waive any lapse or forfeiture or any of the Company's rights or requirements.

This application is made at the instance and request of the undersigned, who, it is agreed, will pay all premiums out of his, her or its funds, and who ratifies the representations, statements, answers and agreements contained in such application and in the statements to Medical Examiner.

Signature in full of Insured Mary H Haines
Dated at Phila Pa on 4/5 1934
Signature of Parent or Guardian ... I consent to the above application:
(Required if Insured a minor under age 15)

Signature in full of person or persons who will pay the premiums
(If a corporation, an officer other than Insured to sign for corporation, WITH TITLE.)
(Foregoing to be executed only when the application is made at the instance and request of some one other than the person to be insured and who will pay the premiums.)

I have known the Insured for some time years and saw her sign this application.
So far as known to me any insurance issued under this application will not replace in whole or part insurance in this or any other Company.
L. P. Sadamare Soliciting Agent.

For H. O. Use APR 3124

Upon request the policy may be antedated for a period not to exceed six months from date of examination unless prohibited by law.

## Monthly and Annual Instalments for Each $1,000 of Proceeds of Policy under Optional Modes of Settlement 2 and 3

The semi-annual and quarterly instalments are 50.37% and 25.28% respectively of the annual instalment

| OPTION 2 | | | OPTION 3 | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | 5 Years Certain | | 10 Years Certain | | 20 Years Certain | | | 5 Years Certain | | 10 Years Certain | | 20 Years Certain | |
| Number of Years' Instalments | Each Monthly Instalment | Each Annual Instalment | Age of Payee When Proceeds Payable | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment | Age of Payee When Proceeds Payable | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment | Each Monthly Instalment | Each Annual Instalment |
| 2 | $42.86 | $507.39 | 10 and under | $3.81 | $44.85 | $3.75 | $44.21 | $3.58 | $42.20 | 49 | $5.26 | $62.01 | $5.17 | $60.51 | $4.90 | $54.20 |
| 3 | 28.69 | 343.23 | 11 | 3.83 | 45.07 | 3.77 | 44.41 | 3.59 | 42.26 | 50 | 5.45 | 63.68 | 5.24 | 61.49 | 4.95 | 54.71 |
| 4 | 22.06 | 261.19 | 12 | 3.85 | 45.30 | 3.79 | 44.62 | 3.61 | 42.54 | 51 | 5.64 | 64.70 | 5.32 | 62.33 | 4.99 | 55.24 |
| 5 | 17.91 | 212.60 | 13 | 3.87 | 45.54 | 3.81 | 44.84 | 3.62 | 42.71 | 52 | 5.84 | 65.83 | 5.41 | 63.20 | 4.74 | 55.77 |
| 6 | 15.14 | 179.82 | 14 | 3.89 | 45.78 | 3.83 | 45.07 | 3.64 | 42.90 | 53 | 5.74 | 67.08 | 5.49 | 64.20 | 4.78 | 56.30 |
| 7 | 13.16 | 155.93 | 15 | 3.91 | 46.03 | 3.85 | 45.29 | 3.65 | 43.08 | 54 | 5.85 | 68.28 | 5.58 | 65.35 | 4.82 | 56.84 |
| 8 | 11.68 | 138.31 | 16 | 3.94 | 46.27 | 3.87 | 45.53 | 3.67 | 43.27 | 55 | 5.97 | 69.57 | 5.68 | 66.44 | 4.87 | 57.37 |
| 9 | 10.53 | 124.69 | 17 | 3.96 | 46.52 | 3.89 | 45.76 | 3.69 | 43.47 | 56 | 6.09 | 70.85 | 5.78 | 67.57 | 4.91 | 57.90 |
| 10 | 9.61 | 113.82 | 18 | 3.98 | 46.77 | 3.91 | 45.99 | 3.70 | 43.65 | 57 | 6.22 | 72.49 | 5.88 | 68.75 | 4.96 | 58.43 |
| 11 | 8.88 | 104.93 | 19 | 4.00 | 47.03 | 3.93 | 46.23 | 3.72 | 43.87 | 58 | 6.35 | 73.98 | 5.98 | 69.96 | 5.00 | 58.96 |
| 12 | 8.24 | 97.54 | 20 | 4.02 | 47.28 | 3.95 | 46.48 | 3.74 | 44.07 | 59 | 6.49 | 75.53 | 6.09 | 71.24 | 5.05 | 59.48 |
| 13 | 7.71 | 91.28 | 21 | 4.05 | 47.55 | 3.97 | 46.74 | 3.76 | 44.28 | 60 | 6.64 | 77.22 | 6.21 | 72.55 | 5.09 | 60.01 |
| 14 | 7.26 | 85.95 | 22 | 4.07 | 47.84 | 4.00 | 47.01 | 3.78 | 44.52 | 61 | 6.80 | 78.98 | 6.33 | 73.91 | 5.13 | 60.54 |
| 15 | 6.87 | 81.33 | 23 | 4.10 | 48.14 | 4.02 | 47.29 | 3.80 | 44.76 | 62 | 6.96 | 80.85 | 6.44 | 75.31 | 5.17 | 61.07 |
| 16 | 6.53 | 77.29 | 24 | 4.12 | 48.45 | 4.05 | 47.59 | 3.82 | 45.00 | 63 | 7.13 | 82.81 | 6.57 | 76.75 | 5.20 | 61.57 |
| 17 | 6.23 | 73.74 | 25 | 4.15 | 48.77 | 4.07 | 47.89 | 3.84 | 45.26 | 64 | 7.31 | 84.87 | 6.70 | 78.23 | 5.24 | 61.99 |
| 18 | 5.96 | 70.52 | 26 | 4.18 | 49.12 | 4.10 | 48.22 | 3.86 | 45.51 | 65 | 7.51 | 87.03 | 6.83 | 79.75 | 5.27 | 62.39 |
| 19 | 5.73 | 67.78 | 27 | 4.21 | 49.47 | 4.13 | 48.56 | 3.89 | 45.79 | 66 | 7.71 | 89.31 | 6.98 | 81.31 | 5.30 | 62.79 |
| 20 | 5.51 | 65.26 | 28 | 4.25 | 49.85 | 4.16 | 48.91 | 3.91 | 46.07 | 67 | 7.93 | 91.69 | 7.13 | 82.89 | 5.33 | 63.21 |
| 21 | 5.32 | 63.06 | 29 | 4.28 | 50.24 | 4.19 | 49.28 | 3.94 | 46.37 | 68 | 8.14 | 94.19 | 7.28 | 84.50 | 5.36 | 63.57 |
| 22 | 5.15 | 60.92 | 30 | 4.32 | 50.65 | 4.23 | 49.66 | 3.96 | 46.67 | 69 | 8.37 | 96.81 | 7.37 | 86.14 | 5.38 | 63.97 |
| 23 | 4.99 | 59.04 | 31 | 4.35 | 51.08 | 4.26 | 50.07 | 3.99 | 46.99 | 70 | 8.61 | 99.56 | 7.51 | 87.79 | 5.40 | 64.34 |
| 24 | 4.84 | 57.28 | 32 | 4.38 | 51.52 | 4.30 | 50.49 | 4.02 | 47.32 | 71 | 8.86 | 102.43 | 7.66 | 89.46 | 5.42 | 64.66 |
| 25 | 4.71 | 55.76 | 33 | 4.42 | 52.01 | 4.33 | 50.93 | 4.05 | 47.66 | 72 | 9.13 | 105.44 | 7.79 | 91.12 | 5.42 | 64.98 |
| 26 | 4.59 | 54.31 | 34 | 4.46 | 52.50 | 4.37 | 51.39 | 4.08 | 48.01 | 73 | 9.40 | 108.57 | 7.98 | 92.79 | 5.42 | 64.98 |
| 27 | 4.47 | 52.96 | 35 | 4.50 | 53.02 | 4.42 | 51.87 | 4.11 | 48.36 | 74 | 9.69 | 111.84 | 8.07 | 94.44 | 5.42 | 64.98 |
| 28 | 4.37 | 51.74 | 36 | 4.54 | 53.56 | 4.46 | 52.38 | 4.14 | 48.75 | 75 | 9.99 | 115.25 | 8.21 | 96.08 | 5.42 | 64.98 |
| 29 | 4.27 | 50.60 | 37 | 4.58 | 54.13 | 4.51 | 52.90 | 4.17 | 49.14 | 76 | 10.30 | 118.78 | 8.34 | 97.65 | 5.42 | 64.98 |
| 30 | 4.18 | 49.53 | 38 | 4.67 | 54.73 | 4.55 | 53.45 | 4.21 | 49.54 | 77 | 10.63 | 122.44 | 8.47 | 99.21 | 5.42 | 64.98 |
| | | | 39 | 4.73 | 55.36 | 4.60 | 54.03 | 4.24 | 49.96 | 78 | 10.96 | 126.22 | 8.59 | 100.71 | 5.42 | 64.98 |
| | | | 40 | 4.78 | 56.02 | 4.65 | 54.63 | 4.28 | 50.38 | 79 | 11.30 | 130.13 | 8.71 | 102.14 | 5.42 | 64.98 |
| | | | 41 | 4.84 | 56.71 | 4.71 | 55.28 | 4.32 | 50.82 | 80 | 11.64 | 134.14 | 8.82 | 103.51 | 5.42 | 64.98 |
| | | | 42 | 4.91 | 57.43 | 4.77 | 55.91 | 4.35 | 51.27 | 81 | 12.00 | 138.26 | 8.93 | 104.80 | 5.42 | 64.98 |
| | | | 43 | 4.97 | 58.19 | 4.83 | 56.60 | 4.39 | 51.73 | 82 | 12.36 | 142.44 | 9.03 | 104.80 | 5.42 | 64.98 |
| | | | 44 | 5.04 | 58.98 | 4.89 | 57.31 | 4.43 | 52.20 | 83 | 12.73 | 146.70 | 9.03 | 104.80 | 5.42 | 64.98 |
| | | | 45 | 5.12 | 59.82 | 4.95 | 58.06 | 4.48 | 52.69 | 84 | 13.09 | 151.00 | 8.98 | 104.80 | 5.42 | 64.98 |
| | | | 46 | 5.19 | 60.71 | 5.02 | 58.84 | 4.53 | 53.18 | 85 | 13.46 | 155.24 | 8.98 | 104.80 | 5.42 | 64.98 |
| | | | 47 | 5.27 | 61.64 | 5.09 | 59.66 | 4.58 | 53.68 | 86 and over | 13.83 | 159.67 | 8.98 | 104.80 | 5.42 | 64.98 |

RIGHTS: Anything in this policy to the contrary notwithstanding, prior to the maturity of this policy, the Insured's children Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines, jointly the survivors or survivor, if none of said children be living then the living children of said children of the Insured, jointly or the survivors, or survivor, if none of the children of said children of the Insured be living then to the executors, administrators of the last survivor of said children of the Insured and the children of said children of the Insured, some of the beneficiaries may without the consent and to the exclusion of the Insured or any other beneficiary, receive, exercise and enjoy every benefit, option, right and privilege conferred by this policy or allowed by the Company.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

New York, October 10th 1934

Secretary.

[fol. 45]

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## Section 7. Miscellaneous Provisions.

**Residence and Travel.**—This Policy is free from restrictions as to residence and travel.

**Occupation.**—This Policy is free from restrictions as to occupation.

**Suicide.**—In the event of the self-destruction of the Insured, whether sane or insane, within one year after the date of issue of this Policy, the amount payable shall be limited to an amount equal to the premium paid hereon.

**Incontestability.**—This Policy shall be incontestable after one year from its date of issue unless the Insured dies in such year, in which event it shall be incontestable after two years from its date of issue.

**Misstatement of Age.**—If the age of the Insured shall have been misstated, the amount payable by the Company shall be such as the premium paid would have purchased at the correct age.

**Change of Beneficiary.**—Unless otherwise provided by endorsement on this Policy or unless there be an existing assignment of this Policy other than to the Company, the beneficiary may be changed from time to time, while the Policy is in force, by written notice to the Company at its Home Office accompanied by the Policy for endorsement. Such change shall take effect upon endorsement of the Policy by the Company.

The interest of any beneficiary who dies before the Insured shall vest in the Insured unless otherwise provided in this Policy.

**Rights of the Insured.**—Except as may otherwise be specifically provided in this Policy or by endorsement on this Policy, the Insured may during his lifetime, without the consent and to the exclusion of the beneficiary, receive, exercise, and enjoy every benefit, option, right, and privilege conferred by this Policy or allowed by the Company.

**Policy Settlement.**—All sums payable by the Company under this Policy shall be payable at the Home Office of the Company in the City of New York.

In any settlement of this Policy at its maturity as a death claim or on surrender, any indebtedness to the Company on this Policy shall be deducted and surrender of the Policy to the Company will be required.

**The Contract.**—This Policy and the application, copy of which is attached, constitute the entire contract.

All statements made by the Insured shall, in the absence of fraud, be deemed representations and not warranties, and no statement shall avoid or be used in defence to a claim under this Policy unless contained in the written application and a copy of the application is attached to the Policy when issued.

**Assignment.**—The Company shall not be charged with notice of any assignment of any interest in this contract until the original assignment or a certified copy thereof has been filed with the Company at its Home Office.

The Company assumes no responsibility as to the validity or effect of any assignment.

All assignments shall be subject to any indebtedness to the Company on account of or secured by this Policy.

**Notice.**—No agent or other person except the President, a Vice-President, or a Secretary of the Company has power on behalf of the Company to bind the Company by making any promises respecting benefits or accepting any representations or information not contained in the written application for this Policy, or to make or modify this contract, or to extend the time for payment of the premium, or to waive any forfeiture or any of the Company's rights or requirements.

A-510-32M-3-33

2559

# THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

RECEIVED $ 90642.00 FROM THE OWNER OF

POLICY NO. 4881836

IN PAYMENT OF THE SINGLE PREMIUM DUE Oct. 10 1934

COUNTERSIGNED Oct 15 1934 19

AT [illegible]

[signature]
AGENCY CASHIER

[signature]
PRESIDENT

NOTE: "This receipt is not binding upon the Company until countersigned by the Company's Agency Cashier through whom the amount is collected, nor until the premium has actually been paid in cash."

Rider Form XI-A—Ed. 2-43

W. C. H. JT 6-14-44 tf-2

Rider attached to and forming a part of Policy No. 4885988 on the life of Mary H. Haines issued by THE MUTUAL LIFE INSURANCE COMPANY of NEW YORK.

## DESIGNATION OF BENEFICIARY, INCOME SETTLEMENT, AND RIGHTS UNDER POLICY

The persons designated under "Beneficiary for all Funds" will become entitled in the order and proportions stated below to each of the Funds defined in this rider, if living when each such Fund becomes payable, and each such Fund will be settled as provided below.

BENEFICIARY FOR ALL FUNDS at the time designated

Upon receipt of due proof of the Insured's death:

One-fourth of such Funds to the Insured's daughter, Margaret W. Haines, if living, if not, to such of the children of said Margaret W. Haines as shall be living, share and share alike, or if none is living, to the Insured's other children, Robert B. Haines, 3rd, Charles H. Haines, and Isabelle H. Miller, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Robert B. Haines, 3rd, if living, if not, to such of the children of said Robert B. Haines, Jr. as shall be living, share and share alike, or if none is living, to Mary T. Haines, spouse of said Robert B. Haines, 3rd, if living if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Charles H. Haines, if living, if not, to such of the children of said Charles H. Haines as shall be living, share and share alike, or if none is living, to Margery Speakman Haines, spouse of said Charles H. Haines, if living, if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

One-fourth of such Funds to said Isabelle H. Miller, if living, if not, to such of the children of said Isabelle H. Miller as shall be living, share and share alike, or if none is living, to William McE. Miller, spouse of said Isabelle H. Miller, if living, if not, to the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

At the death during Option 5, of each of said children of the Insured:

Such of the children of such child of the Insured as shall be living, share and share alike, or if none is living, the above-named spouse, if any, of such child of the Insured, if such spouse is living, if not living or if no spouse of such child of the Insured is named above, the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the

(see next page of this rider)

[fol. 47]

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Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, the executors or administrators of such child of the Insured.

At the death of each child of any of said children of the Insured during Option 3:

Such of the other children of such child of the Insured as shall be living, share and share alike, or if no other child of such child of the Insured is living, to the above-named spouse, if any, of such child of the Insured, if such spouse is living, if not living or if no spouse of such child of the Insured is named above, the others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured is deceased, the living children of such child of the Insured, if any, shall take his or her share divided equally. If none is living, the executors or administrators of such child of such child of the Insured.

At the death, during Option 3, of each of said Mary T. Haines, said Margery Speakman Haines and said William McK. Miller:

The others of said children of the Insured, share and share alike, the survivors or survivor, provided that if any of the others of said children of the Insured, is deceased, the living children of such child of the Insured, if any, shall take his or her share, divided equally. If none is living, the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

Settlement of any Part of the Funds to which each of said children of the Insured becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 2 with monthly payments and with twenty years certain.

At any other time:

Single sum.

Settlement of any Part of the Funds to which each child of each of said children of the Insured becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 3 with monthly payments and with twenty years certain.

At the death, during Option 3, of the one of said children of the Insured who is a parent of such child; or at the death, during Option 3, of each other child of such child of the Insured:

Remaining payments shall be payable when due.

At any other time:

Single sum.

Settlement of any Part of the Funds to which each of said Mary T. Haines, said Margery Speakman Haines and said William McK. Miller becomes entitled at the time designated

Upon receipt of due proof of the Insured's death:

Option 3 with monthly payments and with twenty years certain.

At the death, during Option 3, of the one of said children of the Insured who is a spouse of such beneficiary; or at the death, during Option 3, of any child of such child of the Insured:

Remaining payments shall be payable when due.

(see next page of this rider)

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Page 8 of Designation of Beneficiary, Income Settlement and Rights under Policy, for Policy No. 4385826

| | |
|---|---|
| Settlement of any Part of the Funds to which any other beneficiary becomes entitled at the time designated | At any time: Single sum. |

(see next page of this rider)

[fol. 49]

The provisions of this rider together with the provisions of the section, if any, of this Policy providing for Income Settlement Options, Modes of Settlement, or Optional Modes of Settlement constitute the entire income settlement arrangement elected for this Policy, unless otherwise specifically stated in the preceding pages of this rider.

The following provisions will supplement and modify the provisions on the preceding pages of this rider, unless otherwise specifically stated in such preceding provisions or unless inconsistent with such preceding provisions:

**DEFINITION OF FUNDS**

The Funds referred to in this rider are:

(a) The proceeds payable upon receipt at the Company's Home Office of due proof of the Insured's death.

(b) The principal sum under Option 1 or the unpaid principal and interest under Option 4, remaining at a beneficiary's death, if such Option was in settlement of any part of a Fund to which such beneficiary had become entitled.

(c) Any payments for the period specified for Option 2 or period certain for Option 3 to which a beneficiary had become entitled and which remain unpaid at such beneficiary's death. At such death the commuted value, based on the annual interest rate provided for Option 1, of such future payments will be paid in a single sum.

**DEATH OF BENEFICIARY**

If no beneficiary is living upon receipt at the Home Office of due proof of the Insured's death, the proceeds will be payable in a single sum to the executors or administrators of the Insured. The amount payable at the death of a beneficiary will be the Fund provided for in (b) or (c) of "Definition of Funds". The Fund payable at the death of the last survivor of the beneficiaries will be payable in a single sum to the executors or administrators of such last survivor.

**SUPPLEMENTARY CONTRACT NOT TRANSFERABLE**

Neither the supplementary contract nor any of its benefits will be transferable or subject to surrender or anticipation, or to the debts of any person or to legal process, except as otherwise provided by law.

**ACCRUED INTEREST UNDER OPTION 1**

On any principal sum under Option 1 at a beneficiary's death which will then be settled by Option 1, interest will continue to be paid on the same due dates, the first payment after such death including accrued interest from the last due date preceding death. With any part of the principal sum payable in a single sum or settled by another Option at the termination of Option 1, accrued interest from the last due date will be payable, or settled, as the case may be.

**EFFECT OF DOUBLE INDEMNITY ON OPTION 4**

Any amount payable under any Double Indemnity provision will not change the amount of each payment under Option 4 but will increase the period of payments or amount payable upon termination of such option.

The following provisions will always supplement and modify the provisions on the preceding pages of this rider:

**AMOUNT TO BE SETTLED**

The settlement provided for in this rider will be effective for any amount payable even though such amount may be less than the face amount of this Policy, any policy provision for a single sum to the contrary notwithstanding. The proceeds referred to above will include the proceeds of any Double Indemnity provision issued in connection with the policy.

**SURRENDER OR WITHDRAWAL OR AUTOMATIC TERMINATION**

If a right of withdrawal is provided for, no withdrawal of less than $250. may be made. Upon each withdrawal or upon any automatic payment or other settlement of any part of the principal sum under Option 1, the corresponding part of Option 1 will terminate and if any balance under Option 1 would be less than $1000. payment or settlement of all of such principal sum will be made at such time. Under Option 4, withdrawals will decrease the period of payment but will not change the amount of each periodical payment. Any right of withdrawal or surrender will be exercised by written notice to the Company at its Home Office, accompanied by the supplementary contract. If the policy or this rider provides for deferment of the surrender value of the supplementary contract, such provision will apply to withdrawals.

**THIRTY YEAR LIMITATION ON DURATION OF SETTLEMENT**

No option will begin or continue after the end of thirty years from the date of the supplementary contract unless it is payable to the beneficiary entitled upon receipt of due proof of the Insured's death to the part of the proceeds settled by such option or unless it is Option 3 and the beneficiary whose age determines the amount of income is living. If any option terminates at the end of such thirty years or at the later death of a beneficiary designated in the preceding sentence, the then remaining principal sum and interest, if the terminated option is Option 1 or 4, or the then commuted value, based on the annual interest rate provided for Option 1, if the terminated option is Option 2 or 3 will be payable in a single sum to the beneficiary who received the last income payment or if such beneficiary is not then living to the other beneficiaries as provided for herein.

**CHILDREN OF A BENEFICIARY**

If provision is made under "Beneficiary for all Funds" that the living children of a deceased beneficiary will take such beneficiary's share and if such beneficiary dies during the settlement of such beneficiary's share of a Fund, any living children of such beneficiary will take all of the Fund provided for in (b) or (c) of "Definition of Funds" at such beneficiary's death, divided equally.

**PAYMENTS AT LEAST $10.**

If any payment requested for any beneficiary is less than $10., the periodical payments may be adjusted to payments to each beneficiary in amounts not less than $10. If annual payments to each beneficiary are less than $10., payment may be made in a single sum.

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(See other side of this sheet)

[fol. 51]

**INTEREST MORE OFTEN THAN ANNUALLY UNDER OPTION 1**

If the policy provides under Option 1 for annual interest only, each guaranteed monthly, quarterly, or semi-annual interest payment will be $2.47, $7.43, or $14.90, respectively, per $1000.

**PAYMENT TO TRUSTEE**

If this rider provides for payment to any trustee, the Company will not be responsible for any failure of the trustee to perform such trustee's duties as trustee, nor for the application or disposition of any money paid to such trustee and payment to such trustee will fully discharge the Company for the amount so paid.

**EVIDENCE AS TO FACTS**

The Company, in determining the name, date of death, or other facts relating to any person, may rely solely on any written evidence satisfactory to it, and, in making any payment in reliance thereon, will be fully protected.

**CHANGE OF BENEFICIARY**

Any subsequent change of beneficiary will revoke this designation.

**RIGHTS UNDER POLICY**

During the lifetime of the Insured the right to change the beneficiary and all other rights, benefits, options, and privileges conferred by this Policy or allowed by the Company, including any endowment proceeds, belong exclusively to said children of the Insured, jointly the survivors or survivor, or if none is living, to the children of said children of the Insured, jointly, the survivors or survivor, or if none is living, to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured.

Effective as of JUN 26 1944 Recorded and signed at New York, N. Y.;

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Willard V. Johns

Secretary.

[fol. 52] IN UNITED STATES DISTRICT COURT

EXHIBIT C TO STIPULATION OF FACTS

**In case of any question under this policy, write the Company at Boston, Massachusetts, or any Agency of the Company.**

*I. J. SANTAMARIE*

INSURANCE COUNSELLOR

123 S. BROAD ST., PHILA.

FILING BACK

John Hancock
MUTUAL
LIFE INSURANCE COMPANY
OF BOSTON, MASSACHUSETTS

Policy No. 2544451

ON LIFE OF

[illegible]

Amount $50,000 Age 77

LIFE POLICY MATURING AT DEATH

PREMIUM PAYABLE IN ONE SUM

ANNUAL DISTRIBUTION PERIOD

Premium $43,491.00

Disability Premium

Accidental Death Benefit Premium

*Payable in One Sum*

*As Provided in the Policy*

The Assured is hereby notified that by virtue of this policy he is a member of the JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, and is entitled to vote, either in person or by proxy, at any and all meetings of said Company. The annual meetings are held at its Home Office on the second Monday of February in each year, at twelve o'clock noon.

It is not necessary to employ any firm or person to collect the proceeds under this policy.

No. 2544451

Amount $50,000

THE

# John Hancock

MUTUAL

## LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS

hereby insures the life of

MARY E HAINES

and agrees to pay FIFTY THOUSAND Dollars,

the sum insured, less any indebtedness to the Company hereon, upon due proof of the death of the Insured while the policy is in full force, and upon its surrender at the Company's Home Office in Boston, subject to the conditions and provisions hereinafter recited,

BENEFICIARY CHANGED
ENDORSEMENT

to ISABELLA E MILLER, ROBERT B HAINES, JR. MARGARET W HAINES AND CHARLES H HAINES--CHILDREN if living,

or to such other beneficiary as may be finally substituted under the conditions hereof, or if no such beneficiary be then living, then to the executors or administrators of the Insured.

This insurance is granted in consideration of the application herefor, a copy of which is attached hereto, and made a part of this contract, and of the payment of a single premium of

FORTY-THREE THOUSAND FOUR HUNDRED NINETY-ONE AND 00/100 Dollars

**POLICY AND APPLICATION THE ENTIRE CONTRACT** This policy and the application herefor constitute the entire contract between the parties, and all statements made by the Insured or on his behalf shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall be used in defense to a claim hereunder unless it is contained in a written application herefor, and a copy of such application attached to this policy when issued. No modification or alteration of this policy or endorsement hereon will be valid unless made by the President, a Vice President, the Secretary or an Assistant Secretary, and no other person is authorized to modify or waive any of the terms and conditions of this policy, nor to extend the time for payment of premium or other moneys due the Company, or to bind the Company by making any promise or by accepting any representation or information not contained in the application for this policy.

**INCONTESTABILITY** This policy shall be incontestable after it has been in force during the lifetime of the Insured for two years from its date of issue, except as to provisions and conditions relating to benefits in the event of total and permanent disability and those granting additional insurance specifically against death by accident; but in case the age has been misstated, the amount payable hereunder shall be that which the premium paid would have purchased at the correct age. If the Insured shall die during the first two years of this policy by his own hand or act, while sane or insane, the liability of the Company shall be limited to the premium paid hereon.

[fol. 53]

**The Conditions and Provisions hereinafter set forth are hereby made a part of this Contract.**

In Witness Whereof, *the JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY has, by its President and Secretary, executed and delivered this contract and caused the same to be duly countersigned, at Boston, Massachusetts, on this* FIFTEENTH *day of* OCTOBER *A. D.* 1934 *, which is the date of issue of this policy.*

Charles A Diman
Secretary.

Walter I. Cook
President.

*Countersigned* D J Kidder *Policy Registrar.*

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BPL. Bd. 1-1934 Form 436 O 34 700

LIFE POLICY
MATURING AT DEATH.

PREMIUM PAYABLE
IN ONE SUM.

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**Payment of Premium.**—The premium hereunder is payable on delivery of the policy, at the Home Office of the Company, or to a duly authorized agent presenting the official receipt signed by the President or Secretary, and countersigned by the agent designated on such receipt.

**Change of Beneficiary.**—If the right has been reserved, the Insured may change the beneficiary from time to time, subject to the rights of any assignee, by written request upon the blanks of the Company filed at its Home Office, but such change shall take effect only upon endorsement hereon.

**Annual Surplus Distribution.**—At the end of each policy year while this policy is in force, there shall be distributed hereon such share of the divisible surplus as may be apportioned hereto by the Company.

**Distribution Options.**—Such surplus distributions may at the election of the holder be—(*a*) taken in cash, (*c*) left on deposit with the Company to accumulate with interest at the rate of not less than three and one-half per cent per annum, payable with the policy or withdrawable in cash on demand by the holder, or (*d*) applied to purchase non-forfeitable participating paid-up additions. If no election is in effect on any anniversary, the distribution for that anniversary shall be held on deposit as provided in option (*c*).

**Loans.**—At any time while the policy is in force, the Company will loan, upon proper assignment, and upon the sole security of this policy, a sum not exceeding the cash surrender value of the policy and outstanding additions, at the end of the then current policy year, less any outstanding indebtedness and interest on the total amount loaned to the next policy anniversary. Interest on the loan will be at the rate of six per cent per annum, payable annually on each anniversary of the policy. If the policy is payable to a revocable beneficiary, loans will be made upon the sole signature of the Insured. At its option, the Company may defer the granting of any loan, other than to pay premiums on policies in this Company, for not exceeding ninety days after the application therefor is made. Any interest in default will be added to the principal of the loan.

**Repayment of Loans.**—The whole or any part of a loan may be repaid at any time. Failure to repay the loan or to pay interest thereon, shall not avoid the policy while the indebtedness is less than the cash surrender value, nor until thirty-one days after notice has been mailed to the last known address of the Insured and any assignee.

**Assignments.**—No assignment hereof shall be binding on the Company until filed at its Home Office. The Company assumes no responsibility as to the validity of any assignment.

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[fol. 54]

**CASH SURRENDER VALUE.**—After this policy has been in force for one year, it will have a cash surrender value, payable upon surrender of the policy with the written assent of the person to whom it is made payable. The Company may defer the payment of any cash value for not exceeding ninety days from the date of the application therefor.

**PAID-UP INSURANCE.**—This policy upon payment of the premium stated herein becomes paid-up for its face amount.

## NON-FORFEITURE PROVISIONS

The cash surrender value will be the reserve on the policy and any outstanding additions, at the nearest even dollar per thousand dollars of insurance, less any indebtedness to the Company hereon.

The legal reserve under this policy is computed by the net level premium method upon the American Experience Table of Mortality, with interest at three and one-half per cent per annum.

Values not stated in the table herein will be furnished on request.

**Table of Loan or Cash Values**

The values as herein stated are for each $1,000 of insurance, and will be increased by outstanding additions and will be decreased by any indebtedness hereon.

| After Policy Has Been in Force | Loan or Cash Surrender Value at End of Policy Year | After Policy Has Been in Force | Loan or Cash Surrender Value at End of Policy Year |
|---|---|---|---|
| 1 Yr. | $831 | | |
| 2 Yrs. | 840 | | |

Age 77 Life Single Premium.

## OPTIONAL METHODS OF SETTLEMENT

The Insured, subject to the rights of any assignee or of any beneficiary whose interest is irrevocable, may elect by written notice to the Company at its Home Office, to have the net sum due under this policy if not less than $1,000 paid in accordance with the terms of any one of the following options; or, in the absence of election by the Insured, the beneficiary may elect similar options when the proceeds of the policy become payable to such beneficiary.

**Option 1—Proceeds left on Deposit.** The net sum payable may be left on deposit with the Company, and the Company will pay interest thereon at not less than three and one-half per cent per annum. Payment of the sum left on deposit will be made under such conditions as may be agreed upon when the option is elected.

**Option 2—Limited Income.** Equal payments for a stipulated number of years as set forth in the following table:

**Equal Payments for each $1,000 of the net sum payable**

| Number of Years | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Annual Payment | | $503.69 | $344.56 | $263.04 | $213.09 | $181.22 | $158.01 | $140.55 | $127.09 | $116.19 | $107.24 | $99.98 | $93.78 | $88.47 | $83.99 |
| Monthly Payment | $84.65 | 43.05 | 29.19 | 22.37 | 18.11 | 15.35 | 13.38 | 11.90 | 10.75 | 9.83 | 9.09 | 8.46 | 7.94 | 7.49 | 7.10 |
| Number of Years | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| Annual Payment | $79.89 | $76.37 | $73.26 | $70.47 | $67.98 | $65.74 | $63.70 | $61.85 | $60.17 | $58.63 | $57.20 | $55.89 | $54.69 | $53.57 | $52.53 |
| Monthly Payment | 6.76 | 6.46 | 6.20 | 5.97 | 5.75 | 5.56 | 5.39 | 5.24 | 5.09 | 4.96 | 4.84 | 4.73 | 4.63 | 4.53 | 4.45 |

**Option 3—Life Income.** Equal payments for a stipulated number of years and thereafter as long as the payee shall live, the amount of such payments to be based upon the age at nearest birthday of the payee at the date of maturity of the policy.

**TABLE FOR MALE LIVES**

**Equal Payments for 20 years and thereafter as long as payee shall live, for each $1,000 of the net sum payable**

| Age | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Annual Payment | $41.26 | $41.47 | $41.70 | $41.98 | $42.17 | $42.49 | $42.85 | $43.20 | $43.17 | $43.44 | $43.73 | $44.09 | $44.33 | $44.65 | $44.98 | $45.38 | $45.68 | $46.05 | $46.48 | $46.93 | $47.34 | $47.80 |
| Monthly Payment | 3.69 | 3.82 | 3.84 | 3.86 | 3.88 | 3.89 | 3.92 | 3.94 | 3.97 | 3.99 | 3.73 | 3.74 | 3.77 | 3.79 | 3.82 | 3.85 | 3.88 | 3.88 | 3.92 | 3.96 | 4.02 | 4.05 |
| Age | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| Annual Payment | $48.10 | $48.55 | $49.02 | $49.50 | $50.00 | $50.51 | $51.03 | $51.57 | $52.12 | $52.69 | $53.27 | $53.86 | $54.46 | $55.07 | $55.69 | $56.33 | $56.95 | $57.55 | $58.20 | $58.83 | $59.49 | $60.11 |
| Monthly Payment | 4.09 | 4.13 | 4.17 | 4.21 | 4.25 | 4.29 | 4.34 | 4.39 | 4.44 | 4.49 | 4.53 | 4.59 | 4.64 | 4.69 | 4.74 | 4.79 | 4.85 | 4.90 | 4.96 | 5.01 | 5.06 | 5.12 |
| Age | 54 | 55 | 56 | 57 | 58 | 59 | 60 | 61 | 62 | 63 | 64 | 65 | 66 | 67 | 68 | 69 | 70 | 71 | 72 | 73 | 74 | 75 |
| | | | | | | | | | | | | | | | | | | | | | | |

**Annual Surplus Distribution.**—At the end of each policy year while this policy is in force, there shall be distributed hereon such share of the divisible surplus as may be apportioned hereto by the Company.

**Distribution Options.**—Such surplus distributions may at the election of the holder be—(*a*) taken in cash, (*b*) left on deposit with the Company to accumulate at interest, (*c*) applied to the purchase of paid-up additions to this policy, or (*d*) applied to the shortening of the endowment period.

**Cash Surrender Value.**—After this policy has been in force for one year, it will have a cash surrender value, payable upon surrender of the policy with the written assent of the person to whom it is made payable. The Company may defer the payment of any cash value for not exceeding ninety days from the date of the application therefor.

**Paid-up Insurance.**—This policy upon payment of the premium stated herein becomes paid-up for its face amount.

ing the cash surrender value of the policy and outstanding additions, at the end of the then current policy year, less any outstanding indebtedness and interest on the total amount loaned to the next policy anniversary. Interest on the loan will be at the rate of six per cent per annum, payable annually on each anniversary of the policy. If the policy is

## NON-FORFEITURE PROVISIONS

The cash surrender value will be the reserve on the policy and any outstanding additions, at the nearest even dollar per thousand dollars of insurance, less any indebtedness to the Company hereon.

The legal reserve under this policy is computed by the net level premium method upon the American Experience Table of Mortality, with interest at three and one-half per cent per annum.

Values not stated in the table herein will be furnished on request.

notice has been mailed to the last known address of the Insured and any assignee.

**Assignments.**—No assignment hereof shall be binding on the Company until filed at its Home Office. The Company assumes no responsibility as to the validity of any assignment.

### Table of Loan or Cash Values

The values as herein stated are for each $1,000 of insurance, and will be increased by outstanding additions and will be decreased by any indebtedness hereon.

| After Policy Has Been in Force For | Loan or Cash Surrender Value at End of Policy Year | After Policy Has Been in Force For | Loan or Cash Surrender Value at End of Policy Year |
|---|---|---|---|
| 1 Yr. | $831 | | |
| 2 Yrs. | 840 | | |

Age 77 Life Single Premium.

[fol. 54]

## OPTIONAL METHODS OF SETTLEMENT

The Insured, subject to the rights of any assignee or of any beneficiary whose interest is irrevocable, may elect by written notice to the Company at its Home Office, to have the net sum due under this policy if not less than $1,000 paid in accordance with the terms of any one of the following options; or, in the absence of election by the Insured, the beneficiary may elect similar options when the proceeds of the policy become payable to such beneficiary.

**Option 1—Proceeds left on Deposit.** The net sum payable may be left on deposit with the Company, and the Company will pay interest thereon at not less than three and one-half per cent per annum. Payment of the sum left on deposit will be made under such conditions as may be agreed upon when the option is elected.

**Option 2—Limited Income.** Equal payments for a stipulated number of years as set forth in the following table:

**Equal Payments for each $1,000 of the net sum payable**

| Number of Years | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Annual Payment | | $503.69 | $344.86 | $263.04 | $213.99 | $181.22 | $158.01 | $140.85 | $127.69 | $116.18 | $107.24 | $99.50 | $93.78 | $88.67 | $83.89 |
| Monthly Payment | $84.05 | 43.65 | 29.19 | 22.27 | 18.11 | 15.35 | 13.38 | 11.93 | 10.75 | 9.83 | 9.09 | 8.45 | 7.94 | 7.49 | 7.10 |
| Number of Years | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| Annual Payment | $79.89 | $76.37 | $73.25 | $70.47 | $67.99 | $65.76 | $63.78 | $61.98 | $60.37 | $58.92 | $57.59 | $56.39 | $55.29 | $54.29 | $53.37 |
| Monthly Payment | 6.76 | 6.46 | 6.20 | 5.97 | 5.75 | 5.56 | 5.39 | 5.24 | 5.09 | 4.98 | 4.86 | 4.76 | 4.67 | 4.58 | 4.50 |

**Option 3—Life Income.** Equal payments for a stipulated number of years and thereafter as long as the payee shall live, the amount of such payments to be based upon the age at nearest birthday of the payee at the date of maturity of the policy.

**TABLE FOR MALE LIVES**

**Equal Payments for 20 years and thereafter as long as payee shall live, for each $1,000 of the net sum payable**

| Age | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Annual Payment | $41.26 | $41.47 | $41.70 | $41.93 | $42.17 | $42.40 | $42.65 | $42.90 | $43.17 | $43.44 | $43.73 | $44.03 | $44.33 | $44.65 | $44.98 | $45.32 | $45.68 | $46.05 | $46.43 | $46.83 | $47.9 | $47.65 |
| Monthly Payment | 3.59 | 3.58 | 3.64 | 3.66 | 3.68 | 3.69 | 3.72 | 3.74 | 3.67 | 3.69 | 3.72 | 3.74 | 3.77 | 3.79 | 3.82 | 3.85 | 3.88 | 3.91 | 3.94 | 3.96 | 4.0. | 4.05 |
| Age | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| Annual Payment | $48.10 | $48.55 | $49.02 | $49.50 | $50.00 | $50.51 | $51.03 | $51.57 | $52.12 | $52.69 | $53.27 | $53.86 | $54.46 | $55.07 | $55.69 | $56.32 | $56.96 | $57.62 | $58.29 | $58.98 | $59.69 | $60.11 |
| Monthly Payment | 4.09 | 4.13 | 4.17 | 4.21 | 4.25 | 4.29 | 4.34 | 4.39 | 4.44 | 4.49 | 4.53 | 4.58 | 4.64 | 4.69 | 4.74 | 4.79 | 4.85 | 4.90 | 4.96 | 5.01 | 5.08 | 5.12 |
| Age | 54 | 55 | 56 | 57 | 58 | 59 | 60 | 61 | 62 | 63 | 64 | 65 | 66 | 67 | 68 | 69 | 70 | 71 | 72 | 73 | 74 | 75 |
| Annual Payment | $60.73 | $61.34 | $61.98 | $62.80 | $63.65 | $64.53 | $64.95 | $64.35 | $64.90 | $65.49 | $66.13 | $66.13 | $66.63 | $66.70 | $66.94 | $67.14 | $67.32 | $67.47 | $67.59 | $67.69 | $67.77 | $67.83 |
| Monthly Payment | 5.17 | 5.20 | 5.27 | 5.31 | 5.36 | 5.40 | 5.45 | 5.46 | 5.32 | 5.35 | 5.36 | 5.61 | 5.64 | 5.65 | 5.68 | 5.69 | 5.70 | 5.72 | 5.73 | 5.73 | 5.74 | 5.76 |

**TABLE FOR FEMALE LIVES**

**Equal Payments for 20 years and thereafter as long as payee shall live, for each $1,000 of the net sum payable**

| Age | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Annual Payment | $40.89 | $40.67 | $40.86 | $41.04 | $41.26 | $41.47 | $41.70 | $41.93 | $42.17 | $42.40 | $42.65 | $42.90 | $43.17 | $43.44 | $43.73 | $44.03 | $44.33 | $44.65 | $44.98 | $45.32 | $45.68 | $46.05 |
| Monthly Payment | 3.44 | 3.45 | 3.47 | 3.48 | 3.50 | 3.52 | 3.54 | 3.56 | 3.58 | 3.60 | 3.62 | 3.64 | 3.67 | 3.69 | 3.72 | 3.74 | 3.77 | 3.79 | 3.82 | 3.85 | 3.88 | 3.91 |
| Age | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| Annual Payment | $46.43 | $46.83 | $47.26 | $47.66 | $48.10 | $48.56 | $49.05 | $49.56 | $50.09 | $50.64 | $51.22 | $51.82 | $52.45 | $53.10 | $53.77 | $54.46 | $55.17 | $55.89 | $56.64 | $57.41 | $58.20 | $58.96 |
| Monthly Payment | 3.95 | 3.98 | 4.02 | 4.05 | 4.09 | 4.13 | 4.17 | 4.21 | 4.26 | 4.30 | 4.35 | 4.40 | 4.45 | 4.50 | 4.56 | 4.61 | 4.67 | 4.72 | 4.78 | 4.84 | 4.89 | 4.94 |
| Age | 54 | 55 | 56 | 57 | 58 | 59 | 60 | 61 | 62 | 63 | 64 | 65 | 66 | 67 | 68 | 69 | 70 | 71 | 72 | 73 | 74 | 75 |
| Annual Payment | $59.72 | $60.50 | $60.40 | $60.11 | $60.75 | $61.24 | $61.50 | $62.20 | $62.66 | $62.96 | $64.00 | $64.44 | $64.90 | $65.40 | $65.78 | $66.12 | $66.43 | $66.70 | $66.94 | $67.14 | $67.32 | $67.47 |
| Monthly Payment | 4.98 | 5.01 | 5.06 | 5.12 | 5.17 | 5.20 | 5.27 | 5.21 | 5.26 | 5.40 | 5.46 | 5.46 | 5.50 | 5.56 | 5.58 | 5.61 | 5.64 | 5.66 | 5.68 | 5.69 | 5.70 | 5.72 |

These optional methods of settlement shall not be applicable to a policy payable to a corporation, partnership, or association, or to an assignee.

The method of settlement elected by the Insured shall not be varied by the payee, but if such method of settlement has been chosen by the beneficiary, such beneficiary shall have the right to change or the right to commute any stipulated payments remaining unpaid under Option 2 or 3 upon the basis of interest at three and one-half per cent per annum.

The first payment under Option 2 or 3 will be made immediately. Any stipulated payments remaining unpaid under Option 2 or 3 at the death of the payee last entitled to receive such payments shall be commuted and paid in one sum to the executors or administrators of said payee last entitled to payments.

On funds left on deposit under Option 1, or funds held for payment of stipulated payments under Option 2 or 3, there shall be paid such share of interest earned in excess of three and one-half per cent per annum as the Company may from year to year determine.

**Option 4—Settlement by Mutual Agreement.** Provision may be made for payment of the net sum due under this policy in any other manner that may be mutually agreed upon in writing by the Insured and the Company.

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The Insured by an amendment dated October 16, 1934

declares that the answers to questions numbered 22 [fol. 55]

on part ..... of the application for this policy should read

Isabella H. Miller, Robert B. Haines, Jr.

Margaret W. Haines and Charles H. Haines,

children

John Hancock Mutual Life Insurance Company

Dated at Boston, Mass. Nov. 22 1934 Elmer A. Simmons

Secretary

The ~~insured~~ under this Policy under which children, Isabella H. Miller, Margaret W. Haines, Robert B. Haines, Jr., and Charles H. Haines, are named as beneficiaries, nominates the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or the Successor Trustee under a Deed of Trust dated May 6, 1934, in which the insured reserves to herself the right to exercise all rights and powers granted under the said policy without notice to or consent by the Trustee, and without liability on the part of the John Hancock Mutual Life Insurance Company to see the application of the proceeds of the policy, to be the contingent beneficiary under this Policy, to receive payment in the manner and upon the contingencies provided in an instrument dated November 17, 1934, as set forth in a rider attached hereto as of even date, the original of said instrument being filed at the Home Office of the Company. The Insured expressly reserves to herself the privilege of changing the contingent beneficiary from time to time.

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

By Elmer A. Simmons Secretary.

Dated at Boston, November 22, 1934.

SEE SUBSEQUENT ENDORSEMENT

Insured died May 7, 1946. Amount payable Fifty Thousand Nine Dollars and no/100 Cents ($50,009.00). Share of Isabella H. Miller, daughter, $12,502.25; share of Margaret W. Haines, daughter, $12,502.25; share of Robert B. Haines, Jr., son, $12,502.25; share of Charles H. Haines, son, $12,502.25; payable in accordance with previous election of Settlement Option, dated April 3, 1945, copy attached hereto.

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

By Elmer A. Simmons Secretary.

Dated at Boston, Sept. 3, 1946.

[fol. 56]

# JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS

## NOMINATION OF BENEFICIARY AND ELECTION OF SETTLEMENT OPTION.

Mary H. Haines, the insured under Policy 2544451, issued by the JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, of Boston, Massachusetts, under which her children, Isabella H. Miller, Margaret W. Haines, Robert B. Haines, Jr., and Charles H. Haines, are named as beneficiaries, nominates the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under a Deed of Trust dated May 8, 1934, in which she reserves to herself the right to exercise all rights and powers granted under the said policy without notice to or consent by the Trustee, and without liability on the part of the John Hancock Mutual Life Insurance Company to see to the application of the proceeds of the policy, to be the contingent beneficiary under said policy, to receive payment in the manner and upon the contingencies hereinafter provided, hereby expressly reserving to herself the privilege of changing the contingent beneficiary from time to time, subject to the provisions of the policy and subject also to any pledge or assignment thereof.

The insured directs that the amount due under said policy at her death be paid for the equal benefit of her said children, each such child's share, if not less than One Thousand Dollars ($1000), to be paid in accordance with Option One (1) of the settlement options of said policy and the provisions of said policy relating thereto by combined principal and interest payments, and at her death Twelve Dollars ($12) per each One Thousand Dollars ($1000) of each such child's share, shall be paid in one sum to such child, and a like amount shall be paid to such child quarterly thereafter, until his or her share in the amount due, together with the interest thereon, shall be exhausted; any balance remaining on deposit of either such child's share shall be paid to such child as a final instalment. If, however, any such child's share in the amount due is less than One Thousand Dollars ($1000) at the death of the insured, such share shall be paid to such child in one sum.

In the event of the death of any of the insured's said children prior to the death of the insured, or in the event of the death of any of the insured's said children after becoming entitled to payment and before payment in full of his or her share as hereinbefore provided, the share of such deceased child in the amount due, provided there shall be surviving children of such deceased child, shall be paid in one sum to the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under said Deed of Trust, but if there shall be no surviving children of such deceased child, such share shall be divided into equal shares of such a number that one share may be and shall be added to the share of each surviving child of the insured, and paid in the manner provided for payment of such surviving child's share, and so that one share may be and shall be paid in one sum to the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under said Deed of Trust, for the benefit of the surviving children of each deceased child of the insured.

If at the death of the last survivor of the insured and her said children before payment in full, there shall be no surviving children of any of the insured's said children, the amount due shall be paid in one sum to the executors or administrators of the last survivor of the insured and her said children.

No person entitled to any benefit hereunder shall have (without the written consent of the insured filed with the Company during her lifetime) the right to demand or receive in lieu of the benefits as herein provided, the commuted value thereof, nor to borrow from the Company on the security thereof, nor in any wise to anticipate, alienate or assign the benefits payable hereunder or any part of them, and no such benefit shall in any way be subject to the interference or control of the creditors of the person entitled thereto.

It is understood and agreed that wherever in this election and nomination, payments are contingent upon the prior death of any beneficiary or beneficiaries, the remaining beneficiary or beneficiaries shall furnish to said Company due proof of said death or deaths, and that until such proof has been furnished, the Company shall be free and relieved from liability as to any payment it may make in regular course without knowledge of such death.

# JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS



**This mode of settlement shall cancel and supersede any election of settlement option heretofore made under said policy, and shall not be varied by any beneficiary or beneficiaries.**

It is hereby agreed that settlement under said policy shall be made in accordance wit the foregoing election, subject to the conditions of the policy.

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

By Chas A Dimon Secretary

Dated at Boston, Mass. November 22, 1934

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[fol. 57]

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# JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS

## ELECTION OF SETTLEMENT OPTION

Mary E. Haines, the insured under Policy No. 2544451, issued by the JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, of Boston, Massachusetts, under which her children, Isabella H. Miller, Margaret W. Haines, Robert B. Haines, Jr. and Charles H. Haines, and the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under a Deed of Trust dated May 8, 1934, are named as beneficiaries, hereby directs that the amount payable under said policy at her death be paid for the equal benefit of her said children, each such child's share to be paid in accordance with Option One (1) of the settlement options of said policy and the provisions of said policy relating thereto by combined principal and interest payments, and at her death Twelve Dollars ($12) per each One Thousand Dollars ($1000) of each such child's share, shall be paid in one sum to such child, and a like amount shall be paid to such child quarterly thereafter, until his or her share in the amount payable, together with the interest thereon, shall be exhausted; any balance remaining on deposit of any such child's share, less than the stipulated amount to be paid quarterly, shall be paid to such child as a final instalment.

In the event of the death of any of the insured's said children prior to the death of the insured, or in the event of the death of any of the insured's said children after becoming entitled to payment and before payment in full of his or her share as hereinbefore provided, the share of such deceased child in the amount payable, provided there shall be surviving children of such deceased child, shall be paid in one sum to the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under said Deed of Trust, but if there shall be no surviving children of such deceased child, such share shall be divided into equal shares of such a number so that one share may be and shall be added to the share of each surviving child of the insured, and paid in the manner provided for payment of such surviving child's share, and so that one share may be and shall be paid in one sum to the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under said Deed of Trust, for the benefit of the surviving children of each deceased child of the insured.

If at the death of the last survivor of the insured and her said children before payment in full, there shall be no surviving children of any of the insured's said children, the amount payable shall be paid in one sum to the executors or administrators of the last survivor of the insured's said children.

It is hereby agreed, if permitted by law, that no person entitled to the principal of the proceeds of this policy, or interest due or to become due thereon, or to any instalment thereof shall be permitted to commute, anticipate, encumber, alienate, or assign the said principal, interest, or any such instalment, or any part thereof, and that no payment of said principal, or of any interest thereon, or any instalment, or any part thereof shall be in any way subject to such person's debts, contracts, or engagements, or to attachment or levy under any judicial processes for payment thereof. The Company assumes no responsibility for the validity of the agreement made in this paragraph.

The Company shall not be required at any time to place under an Option for any payee an amount less than One Thousand Dollars ($1000), and the payment by the Company of such an amount in one sum to the payee then entitled to payments thereunder shall discharge the Company from all liability therefor.

It is understood and agreed that if any payments under this election of settlement option are contingent upon the prior death of any person named herein as beneficiary, the surviving beneficiary entitled to receive such payments shall furnish due written proof of such death to said Company at its Home Office in Boston, in a form satisfactory to it and particularly identifying the policy herein specified, and that said Company shall not in any case be liable for any payment it may make in regular course prior to its receipt, as aforesaid, of such proof.

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[fol. 59]

# JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS



This election of settlement option shall cancel and supersede any election of settlement option heretofore made under said policy, and shall not be varied by any beneficiary.

It is expressly understood and agreed that said Company shall not be bound hereby unless and until this instrument, duly executed, shall have been received by said Company at its Home Office in Boston, Massachusetts.

The insured's children, Isabella H. Miller, Margaret W. Haines, Robert B. Haines, Jr. and Charles H. Haines, and the Fidelity-Philadelphia Trust Company, of Philadelphia, Pennsylvania, Trustee or its Successor Trustee under said Deed of Trust, hereby join in this instrument in token of their assent thereto.

Dated at Philadelphia, Pa. this 3rd day of April A.D.1945

Witness: /s/ Walter Willard

By /s/ Isabella H. Miller
Isabella H. Miller

Witness: /s/ E. Maude Stewart

By /s/ Margaret W. Haines
Margaret W. Haines

Witness: /s/ E. Maude Stewart

By /s/ Robert B. Haines, 3rd.
Robert B. Haines, Jr.

Witness: /s/ Gilbert M. Harris

By /s/ Charles H. Haines
Charles H. Haines.
Fidelity-Philadelphia Trust Company,
Trustee

Witness: /s/ J. L. Weatherby

By /s/ Carl Royer

The foregoing election recorded this 15th day of May A.D.1945

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

By Elmer L. French Secretary.

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# Application for Insurance to the John Hancock Mutual Life Insurance Company of Boston, Massachusetts.

Ed. 1-34 — STATEMENTS TO BE MADE BY APPLICANT — 2544451 — FORM 1101-O-34

1. Full name of applicant. (Print) MARY H HAINES

2. Address for premium notices. (Print) Number 125 Street Gilpin Ave City or Town Phila State Pa
Residence 125 Gilpin Ave, Phila Pa

3. Place of birth. City or Town Centerville State or Country. Texas

4. What is your present occupation? State exact duties. housekeeper

5. Name and address of employer.

12. Form of policy applied for. Single Premium Life

13. Amount. $ 50,000

14. Date of birth. Month March Day 19 Year 1858 Age next birthday 77

15. Do you desire Total and Permanent Disability Benefit providing for Waiver of Premium? no

16. Do you desire Double Indemnity Benefit? no

17. Premiums to be paid ~~Annually~~ ~~Semi-Annually~~ Single ~~Quarterly~~ — Total Amount of Premium $ 43,491.00

18. Have you paid (Yes or No) the premium? no — Amount paid $ none

19. Dividends to be applied under Option A
(State whether (A) in cash, (B) to reduce current premium, (C) left to accumulate or (D) to purchase additional insurance.) NOTE. (Option D not applicable to Term Policies.)

20. State whether Married, Single, Widow, Widower. widow

21. Non-forfeiture Provisions to become effective in event of non-payment of premiums. (Strike out provision not desired.) ~~Extended Term Insurance~~ ~~Reduced Paid-Up Insurance~~

6. (a) Have you ever taken a flight in any type of aircraft either as pilot or passenger? (a) no
(b) Do you contemplate taking aerial flights either as pilot or passenger? (b) no
(If either answer is yes, give full particulars on aviation questionnaire.)

7. Do you intend to reside or travel outside the United States or Canada? If so, state for how long, when, where, and for what purpose. no

8. Have you ever applied for a policy which has not been issued or upon which an additional premium charge has been imposed by modification of form or otherwise? no

9. Is any application for insurance now pending or contemplated in any Company? Name of Co. Amount Plan no

10. Is this insurance intended to replace other insurance now in force in this or any other Company? (If so, name Company and give full particulars.) no

11. Insurance in force on my life

| Name of Company. | Amount | Plan | Year Issued |
|---|---|---|---|
| Mutual Life | $50,000 | Single Prem. Life and Endt | 1904 |

22. Name of beneficiary. (Print) Isabella H. Miller, Robert B. Haines, Jr., Margaret W. Haines & Charles H. Haines, children of the insured under Mode of Settlement hereto attached

23. Relationship to applicant. Age

24. Do you reserve the right to change the beneficiary from time to time? yes

Unless otherwise provided, any policy issued hereunder shall be payable to the executors administrators of the insured, if no named beneficiary is living at insured's death; if an Endowment it shall be payable to the insured at its maturity as an Endowment; if payable to a trustee, the Company shall not be liable for the application of the policy proceeds under the trust.

25. State the total monthly income payable in event of total Disability under policies on your life, including Health Insurance.
$ ..... monthly income.

Corrections and Amendments (For Home Office use only)

26. Are you now in good health, so far as you know or believe? yes

27. Have you any deformity, impairment of sight or hearing, or loss of limb? no

28. Have you within six months lived with or been intimately associated with any person suffering from consumption? no

29. Have you ever applied for or are you now receiving any invalid pension, Government disability or vocational training? no

30. (a) Have albumin, blood or sugar ever been found in your urine? no
(b) Have you ever been told that you had symptoms of Bright's disease or diabetes? no

31. (a) To what extent do you use spirituous or malt liquors? none
(b) Have you ever used either of them to excess? no

32. Have you ever received or applied for treatment at any hospital, dispensary, sanitarium, cure or other institution? Many years ago for non-malignant tumor and for convulsions

33. Have you ever been away on account of your health? Give full particulars. no

34. Have you ever had or been treated for any of the following? Answer yes or no to each. If yes give full particulars in space below.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Epilepsy no | Nervous breakdown no | Chronic cough no | Indigestion no | Colic no | Goitre no | | |
| Paralysis no | Discharge from the ear no | Blood Spitting no | Appendicitis no | Kidney disease no | Syphilis no | | |
| Frequent or severe headaches no | Rheumatism no | Consumption no | Ulcer of stomach or duodenum no | Disease of bladder or prostate no | Any heart trouble no | | |
| | Cancer or tumor no | Pleurisy no | | High blood pressure no | Any surgical operation no | | |

Details of illnesses recorded above.

35. Have you within the past five years had medical advice for any disease or disorder not included above? Give full particulars. no.

36. Exact height 5 ft. 4 in. (In shoes)
Accurate weight 152 lbs. (Ordinary clothes)
When were you last weighed? Weekly
Have you gained or lost weight in the past two years? If so state cause, how much and how long weight has remained stationary. no

37. FAMILY RECORD

| | Age if living | Condition of Health | Age at death | Disease which caused death |
|---|---|---|---|---|
| Father | | | all 40 | Kidney trouble |
| Mother | | | 68 | Apoplexy |
| How many BROTHERS? | - | | - | |
| How many SISTERS? | | | | |

IT IS UNDERSTOOD AND AGREED: **A.** That the foregoing statements and answers which I have made in this application as a basis for the contract of insurance, are complete, true and correctly recorded. **B.** That if payment of the premium has been made with the application, the insurance (subject to the terms and conditions of any policy issued hereunder) if the application is approved at the Home Office of the Company, shall be in force from the date of the completion of the application, provided, that the Company shall be satisfied that on said date I was insurable in accordance with its rules for the amount and on the plan applied for without modification; that if payment of the premium has not been made with the application, any policy which may be issued hereon shall take effect only if I have had no medical treatment since the date of the application, and then only in the event that it shall be delivered to and actually received by me, and the first premium or instalment thereof actually paid while I am alive and in sound health, and that whether the premium is paid with the application or otherwise, delivery and payment shall constitute an acceptance of the policy and of all its conditions. **C.** That a receipt on the form attached hereto is the only receipt the agent is authorized to give for any payment made before delivery of the policy; that only the President, a Vice President, the Secretary or an Assistant Secretary can make, modify or discharge contracts or waive any of the Company's rights or requirements; that notice to or knowledge of the soliciting agent or the medical examiner is not notice to or knowledge of the Company and that neither of them is authorized to accept risks or to pass upon insurability. **D.** That if errors or omissions are discovered by the Company in the application, the Company is authorized to amend the application by noting the change in the space above entitled "Corrections and Amendments" and I hereby agree that my acceptance of any contract issued on the application so amended shall constitute a ratification by me of such changes or amendments, but no change shall be made as to amount, classification, plan of insurance, or benefits, unless agreed to in writing by me. **E.** I expressly waive on behalf of myself and of any person who shall have or claim any interest in any policy issued hereunder all provisions of law forbidding any physician or other person who has heretofore attended or examined me or who may hereafter attend or examine me from disclosing any knowledge or information which he thereby acquired. **F.** That if within sixty days from the date of this application the Company has given no notice of the acceptance of the risk it shall be considered as declined.

Written at Philadelphia, Pa Jan 5 1934

Witness: Ed Duffield — Mary H. Haines — Applicant

NOTICE TO AGENT. The receipt below is not to be detached unless the initial premium is collected when application is completed. If question 18 is answered "no" and receipt is detached from application action will be withheld until receipt is accounted for.

FORM 1101-O-34

[Ed 601]

60

60

COPY

**This Form must Not be used as an application for Reinstatement**

**AMENDMENT TO APPLICATION**

**with Health Certificate**

FORM 1748

Ed. 7-20 50M 1-34

[fol. 61]

# John Hancock Mutual Life Insurance Company

**of Boston, Massachusetts**

Mary H. Haines of Philadelphia, Penna.

made application on October 5, 19 34 for Policy No. 2544451

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, do hereby refer to the said application which with the statements and agreements therein contained, together with the following statements and agreements made in amendment, modification or support of those heretofore made I agree shall be taken as a whole and as such shall form the basis for the contract of insurance.

I hereby certify that answer to Question 22 of said application should read:

Isabella H. Miller, Robert B. Haines, Jr., Margaret W. Haines & Charles H. Haines, children."

~~I certify that I am now in good health; that all the answers and declarations made by me in said application still remain true, except as noted below; and that since the date of said application, I have had no injury, ailment, illness or disease, nor symptoms of such, neither have I consulted a physician, except as noted below.~~

61

present occupation is .....
(State exact nature of duties)

at Philadelphia, Pa. this 16th day of October A. D., 19 34

ess Mr Duffield ✓ Mary H. Haines Applicant

61

112 E.
Life Annuity.
November, 1923.

Philadelphia

NON-PARTICIPATING

# LIFE ANNUITY.

Annuity No. 30599

## The Mutual Life Insurance Company of New York.

Annuity on the Life of

DRAW CHECK TO PAY THIS PREMIUM TO THE ORDER OF THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Mary H. Haines

Annuity, $ 5026.60

Payable quarter-annually ($1256.65)

First Payment, July 27th 1934

Date, April 27th 1934

Single Payment to the Company, $ 40642.

1000-7-33

62

EXHIBIT D

LIFE ANNUITY. SINGLE PAYMENT.

# MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

(First Policy issued February 1st, 1843)

The printed provision as to the reserve held for this Contract was deleted before the issuance of this Contract and the following substituted therefor:
"The reserve held for this Contract shall be computed in accordance with the Combined Annuity Table assuming interest at the rate of four per centum per annum."
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
By [signature] Secretary

81-600

**In Consideration** of the payment to the Company of

ANNUITY NUMBER 30599

Forty thousand six hundred forty-two Dollars,

**Promises to pay** at the Home Office of the Company in the City of New York

ANNUITY OF $ 5026.60

to Mary H. Daines

of Philadelphia, County of Philadelphia, State of Pennsylvania,

AGE 76

during the lifetime of said Mary H. Daines

of Philadelphia, County of Philadelphia, State of Pennsylvania,

SINGLE PAYMENT TO COMPANY $ 40642.

the Annuitant, an Annuity of Five thousand twenty-six and 60/100 Dollars per annum,

payable in quarter- annual payments of Twelve hundred fifty-six and 65/100 Dollars each,

the first such payment to be made on the Twenty-seventh day of July

One Thousand Nine Hundred and thirty-four if the Annuitant be then living, and subsequent

payments to be made on the Twenty-seventh day of October, January, April and July

thereafter, said Annuity terminating with the last quarter- annual payment preceding the death of the Annuitant.

**It is Agreed** that the Company shall be furnished with evidence that the Annuitant is living on each and every day on which an annuity payment falls due, and that no such payment shall be made until such evidence has been received, and that upon the death of the Annuitant there shall be no proportionate payment of this Annuity to the day of such death.

This Annuity is granted upon the declaration that said Annuitant was aged seventy-six years at the last anniversary of her birth, having been born on the Nineteenth day of March One Thousand eight hundred fifty-eight

If such declaration shall be found untrue then the amount of annuity payable under this Contract shall be such as the payment made to the Company herefor would have purchased at the Annuitant's correct age; any overpayment or overpayments by the Company, with interest thereon at the rate of five per centum per annum, compounded annually, shall be deducted from the current or next succeeding annuity payment or payments to be made after correction of age.

This Annuity Contract constitutes the entire contract between the parties hereto.

~~The reserve held for this Contract shall be computed in accordance with McClintock's Tables of Mortality among Annuitants assuming interest at the rate of four per centum per annum.~~

This Contract does not participate in the surplus of the Company.

No agent or other person except the President, Vice-President, a Second Vice-President, a Secretary or the Treasurer of the Company has power on behalf of the Company to make, modify or discharge this or any contract.

**In Witness Whereof,** the Company has caused this Contract to be executed this Twenty-seventh day of April 1934.

David F. Houston. President

[signature] Secretary.

Countersigned [signature] Registrar.

When the payment on this contract is made to The Mutual Life Insurance Company of New York, it will be acknowledged either by a receipt signed by the Treasurer and countersigned by the Agency Cashier, or by endorsement on the contract by the Company at its Home Office. Possession of this contract is not otherwise evidence that such payment has been made.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
By [signature] Secretary

23-3

ANNUITY DURING LIFETIME OF ANNUITANT — NON-PARTICIPATING — SINGLE PAYMENT

63

[fol. 63]

[fol. 64] IN UNITED STATES DISTRICT COURT

EXHIBIT E TO STIPULATION OF FACTS

112 E.

Life Annuity.

November, 1923.

Philadelphia

NON-PARTICIPATING

# LIFE ANNUITY.

Annuity No. 31,908

# The Mutual Life Insurance Company of New York.

Annuity on the Life of

DRAW CHECK TO PAY THIS PREMIUM TO THE ORDER OF THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

Mary H. Haines

Annuity, $ 2440.64

Payable quarterly ($610.16)

First Payment, Regular March 9th 19 35

Date, October 10th 19 34

Single Payment to the Company, $ 19358.

300-7-34

64

EXHIBIT E

LIFE ANNUITY. SINGLE PAYMENT.

# THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

(First Policy issued February 1st, 1843)

The printed provision as to the reserve held for this Contract was deleted before the issuance of this Contract and the following substituted therefor:
"The reserve held for this Contract shall be computed in accordance with the Combined Annuity Tables assuming interest at the rate of four per centum per annum."

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,

[illegible] Secretary

21-400

**In Consideration** of the payment to the Company of

ANNUITY NUMBER

31,908

NINETEEN THOUSAND THREE HUNDRED FIFTY EIGHT Dollars,

**Promises to pay** at the Home Office of the Company in the City of New York

ANNUITY OF

to Mary H. Haines

$ 2440.64 of Philadelphia, County of Philadelphia, State of Pennsylvania,

AGE

during the lifetime of said Mary H. Haines

76 of Philadelphia, County of Philadelphia, State of Pennsylvania,

a special annuity payment of $397.95 on the 9th day December 1934, if the Annuitant be then living and the Annuitant, an Annuity of Twenty-four hundred forty and 64/100 Dollars per annum,

SINGLE PAYMENT TO COMPANY

payable in quarter annual payments of Six hundred ten and 16/100 Dollars each,

$ 19358

the first such payment to be made on the ninth day of March

One Thousand Nine Hundred and thirty-five if the Annuitant be then living, and subsequent

payments to be made on the ninth day of June, September, December, and March

thereafter, said Annuity terminating with the last quarter annual payment preceding the death of the Annuitant.

[fol. 65]

**It is Agreed** that the Company shall be furnished with evidence that the Annuitant is living on each and every day on which an annuity payment falls due, and that no such payment shall be made until such evidence has been received, and that upon the death of the Annuitant there shall be no proportionate payment of this Annuity to the day of such death.

This Annuity is granted upon the declaration that said Annuitant was aged seventy-six years at the last anniversary of her birth, having been born on the nineteenth day of March One Thousand eight hundred fifty-eight If such declaration shall be found untrue then the amount of annuity payable under this Contract shall be such as the payment made to the Company herefor would have purchased at the Annuitant's correct age; any overpayment or overpayments by the Company, with interest thereon at the rate of five per centum per annum, compounded annually, shall be deducted from the current or next succeeding annuity payment or payments to be made after correction of age.

This Annuity Contract constitutes the entire contract between the parties hereto.

~~The reserve held for this Contract shall be computed in accordance with McClintock's Tables of Mortality among Annuitants assuming interest at the rate of four per centum per annum.~~

This Contract does not participate in the surplus of the Company.

No agent or other person except the President, Vice-President, a Second Vice-President, a Secretary or the Treasurer of the Company has power on behalf of the Company to make, modify or discharge this or any contract.

When the payment on this contract is made to The Mutual Life Insurance Company of New York, it will be acknowledged either by a receipt signed by the Treasurer and countersigned by the Agency Cashier, or by endorsement on the contract by the Company at its Home Office. Possession of this contract is not otherwise evidence that such payment has been made.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,

[illegible] Secretary

**In Witness Whereof,** the Company has caused this Contract to be executed this tenth day of October 1934.

David F. Houston President.

Secretary.

Countersigned [illegible] Registrar.

ANNUITY DURING LIFETIME — NON-PARTICIPATING — SINGLE PAYMENT

69

A-[illegible] 3-26-34

6976

# THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK

RECEIVED $ 19358.00 FROM THE OWNER OF

ANNUITY NO. 31.908

IN PAYMENT OF THE SINGLE PREMIUM DUE Oct. 10 1934

COUNTERSIGNED OCT 10 1934 19___

AT [illegible]

[signature]
AGENCY CASHIER

[signature]
Treasurer

NOTE: "This receipt is not binding upon the Company until countersigned by the Company's Agency Cashier through whom the amount is collected, nor until the premium has actually been paid in cash."

66

John Hancock
MUTUAL
LIFE INSURANCE COMPANY
OF BOSTON, MASSACHUSETTS

The annuitant is hereby notified that by virtue of this contract he is a member of the John Hancock Mutual Life Insurance Company, and is entitled to vote at all meetings of the company, personally or by proxy. The annual meeting is held at its Home Office on the second Monday in each year, at twelve o'clock noon.

# SINGLE PREMIUM LIFE ANNUITY

Nonparticipating

**Number** 026406

**Annuitant**

MARY F. HAINES

**Annuity Payments**

$323.89

**Payable** QUARTERLY

**Commencing** NOVEMBER 15, 1934
**Date of Contract**

OCTOBER 15, 1934

**Single Premium** $10509.00

**Age** 76 6-12

*I. J. SANTAMARIE*

INSURANCE COUNSELLOR

123 S. BROAD ST., PHILA.

67

(Page 17)



[fol. 67] IN UNITED STATES DISTRICT COURT
EXHIBIT F TO STIPULATION OF FACTS

EXHIBIT F

[fol. 68]

# ANNUITY

NUMBER 02 496

AGE 76 6-12

# JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

OF BOSTON, MASSACHUSETTS

**In Consideration** of the Representations in the Application herefor, a copy of which is attached hereto and made a part hereof, and of the payment of a Single Premium of

TEN THOUSAND FIVE HUNDRED NINE AND 00/100 Dollars, the

**JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY**

hereby promises to pay, at its Home Office in Boston, to

MARY H. HAINES

an Annuity during the continuance of the life of the said

MARY H. HAINES

(hereinafter called the Annuitant), said Annuity to be paid in equal QUARTERLY payments of THREE HUNDRED TWENTY-THREE AND 89-100 Dollars each, commencing on the FIFTEENTH day of NOVEMBER, 1934, and terminating at the death of the Annuitant.

This Contract does not participate in the surplus of the Company.

The Provisions hereinafter set forth are hereby made a part of this Contract.

In Witness Whereof, the John Hancock Mutual Life Insurance Company has, by its President and Secretary, executed and delivered this Contract and caused the same to be duly countersigned, at Boston, Massachusetts,

on this FIFTEENTH day of OCTOBER, A.D. 1934

Charles A. Diman
Secretary.

Walter I. Crocker
President.

Countersigned,

D. J. Keaver
Policy Registrar.

Form 1126-O-26 500 12-33

SINGLE-PREMIUM LIFE ANNUITY NON-PARTICIPATING

[fol. 69]

*Payment of Premiums.* The premium hereunder is payable in advance at the Home Office of the Company or to a duly authorized agent presenting the official receipt signed by the President or Secretary and countersigned by the agent designated on such receipt.

*Evidence that Annuitant Is Living.* The Company will require evidence that the Annuitant is alive before making Annuity payments hereunder.

*Incontestability.* This Contract shall be incontestable after one year from its date of issue: but in case the age has been misstated, the amount of Annuity payable hereunder shall be that which the premium paid would have purchased at the correct age. Any overpayment or overpayments by the Company, with interest at the rate of six per centum per annum thereon, shall be charged against the payments to be made after adjustment.

No suit shall be maintained under this Contract unless commenced within six years from the time when the cause of action accrues.

*Assignments.* No assignment hereof shall be binding on the Company until filed at its Home Office. The Company assumes no responsibility as to the validity of any assignment.

*Entire Contract.* This Annuity Contract and the application herefor constitute the entire contract between the parties.

*Modifications.* No agent or other person except the President, a Vice-President, the Secretary or an Assistant Secretary, has power to change or modify this Contract.

69

**APPLICATION to the ~~JOHN~~ HANCOCK MUTUAL LIFE INSURANCE COMPANY of Boston, Massachusetts**

for a **LIFE ANNUITY** on the life of MARY H. HAINES (Print Full Name) 0204067 | Sex Female

1. Residence (Print) 156 School Lane (Number) (Street) Philadelphia (City or Town) Pennsylvania (State)

2. Place of Birth Coatesville, (City or Town) Pennsylvania (State or Country) 3. Date of Birth March 19, 1858. Age Last Birthday 76

5. Source of information as to date of birth.
Mutual Life of New York Policies #'s 1021323 and 1025294
*(Obtain a certified copy of Certificate of Birth, if possible; otherwise, a certified copy of the best available record; if no record, an affidavit of a qualified person.)*

6. Present Occupation with length of time thus engaged.
at home

7. State whether Single, Married or Widowed.
widow

8. State full name of person to whom annuity payments are to be made if other than to the Annuitant named above.

if living, otherwise to the Annuitant.

9. Address to which payments are to be sent. (Print)
156 School Lane, (Number) Philadelphia, (Street) Pa.
(City or Town) (State)

10. Form of Annuity Contract desired: (Insert X in space provided for form selected.)
A [X] —Providing for termination with the death of the Annuitant without refund.
B [ ] —Providing that, if at the Annuitant's death the sum of the annuity payments made is less than the premium paid for the annuity, a final payment of the amount of such premium in excess of the sum of the annuity payments shall be made by the Company.

If form B is applied for, state Beneficiary to whom final payment, if any, is to be made.

Name None Relationship

Is the right reserved to change the Beneficiary from time to time?

11. First quarterly payment due at the end of first annuity period.
(Insert Ann., Semi-ann., Quar., or Mo.)

12. Any special request.
Please make first Payment in 30 days & quarterly thereafter.

13. (a) Single Premium $10509.00
or
(b) Amount of each Annuity Payment desired $
(Answer either (a) or (b).)

Corrections and Amendments.

14. Has Premium been paid? No

If so, state amount $

It is understood and agreed that the foregoing statements and answers which I have made in this application as a basis for the Annuity contract are complete, true and correctly recorded; that if errors or omissions are discovered by the Company in this application, the Company is authorized to amend this application by noting the change in the space entitled "Corrections and Amendments" and I hereby agree that my acceptance of any contract issued on this application so amended shall constitute a ratification by me of such changes or amendments, but no change shall be made as to amount, classification, plan of contract, or benefits, unless agreed to in writing by me.

WRITTEN AT Philadelphia, Pa. C.A.Duffield (Witness) Mary H. Haines (Annuitant)

DATE October 5th, 1934 C.A.Duffield (Witness) Mary H. Haines (Applicant (If other than Annuitant))

CREDIT FOR WRITING THIS APPLICATION BELONGS TO

| Agency or District at | General Agent or District Manager | Asst. Dist. Manager | Agent |
|---|---|---|---|
| C.A.Duffield, Phila. Ordinary | | | C.A.Duffield |

(Print Names)

Life Ann. Form 1136-O-34 Ed. 1-1934

If the premium is not paid when the application is signed collection must be made upon issuance of the contract.

[fol. 71] IN UNITED STATES DISTRICT COURT
EXHIBIT G TO STIPULATION OF FACTS

# This Agreement,

Made the eighth day of May A. D., 1934

BETWEEN

MARY H. HAINES

(hereinafter called Settlor)

and

**Fidelity-Philadelphia Trust Company,** of Philadelphia, Pennsylvania,

or its successors, as Trustee (hereinafter called Trustee),

WITNESSETH,

**FIRST:** That Settlor, desiring to establish a trust covering the proceeds of certain insurance policies described in Schedule "A" hereto attached and made part hereof, and the proceeds of any additional policies hereafter made subject to the terms hereof, agrees that all such policies of insurance shall be made payable to Trustee as beneficiary or as assignee, and to effect this Settlor agrees to execute assignments, changes of beneficiary or such other instruments as may be necessary.

**SECOND:** That the proceeds of the policies listed herein and of any additional policies made subject to this agreement shall, when collected by Trustee, be held upon the following terms of trust:

To pay the net income therefrom equally and in convenient instalments unto Isabelle H. Miller, Robert B. Haines, 3rd, Charles H. Haines and Margaret W. Haines, children of Settlor, for and during the full terms of their respective lives.

Upon the death of each of the said children of Settlor, whether such death shall occur before or after the death of Settlor, to pay the net income at any time fixed for the distribution thereof, from the portion of principal represented by the child of Settlor so dying (or which would have been represented by the child of Settlor so dying had such child been living at the time fixed for the said distribution) equally unto the children of the child of Settlor so dying, to wit, the grandchildren of Settlor, as hereinafter set forth, and if such child of Settlor so dying shall leave no children him or her surviving, then to hold the said portion of principal for the other children and children of deceased children of Settlor equally, per stirpes, upon the same terms of trust as herein set forth for their respective shares.

As to grandchildren of Settlor born after the death of Settlor

who are the children of a deceased child of Settlor, as aforesaid, to pay their shares of the net income from the share of principal represented by their deceased parent unto such grandchildren until twenty-one years after the death of the survivor of Settlor and his said children, namely: Isabelle H. Miller, Robert B. Haines, 3rd, Charles H. Haines and Margaret W. Haines, at which time to transfer, assign and pay over to such grandchildren the portion of principal respectively represented by them hereunder absolutely.

As to grandchildren of Settlor living at the death of Settlor, who are the children of a deceased child of Settlor, as aforesaid, to pay their shares of the net income from the share of principal represented by their deceased parent equally unto such grandchildren for and during the full terms of their respective lives.

Provided, however, that at any time after any grandchild receiving income has attained the age of twenty-five years, Trustee may, upon the request of such grandchild, transfer, assign and pay over unto such grandchild all or any part of the portion of principal represented by such grandchild if Trustee, in its discretion, shall deem it to the best interest of such grandchild so to do.

If any grandchild of Settlor, born either before or after the death of Settlor, shall die without having received the portion of the principal hereof from which such grandchild was in receipt of income in his or her lifetime, then upon the death of such grandchild to transfer, assign and pay over the said portion of principal unto such person or persons as such grandchild so dying may by his or her last Will and Testament direct, limit and appoint. In default of appointment to hold the said portion of principal equally for the brothers and sisters and children of deceased brothers and sisters of the grandchild of Settlor so dying upon the same terms of trust with the same remainders over as herein set forth for the portion of the principal respectively represented hereunder by such brothers and sisters, and in default of such brothers and sisters and children of deceased brothers and sisters to hold the said portion of principal for the other children and grandchildren of Settlor upon the same terms of

# SCHEDULE "A"

## MARY H. HAINES

| Policy No. | Company | Amount |
|---|---|---|
| 4,842,239 | Mutual Life Insurance Co. of New York | $200,000. |
| Note: | Is held by insurance company and to be paid into this Trust upon the death of the four principal beneficiaries. | |
| * 1,021,323 | Mutual Life Insurance Col of New York | 25,000. |
| | | $225,000. |
| 4885836 | Mutual Life Insurance Co. | $100,000 |
| 2544451 | " " " " | 50,000 |

NOTE: These two above policies were purchased following the purchase of number 2842239, itemized above, and are held by the insured, being made subject to the same terms and conditions, in connection with this Trust Agreement.

* Policy 1,021,323 Mutual Life Ins Co - 25,000 was removed from this trust by notarized change of beneficiary form executed by Mary H. Haines on June 30th 1938

H Headley
6/30/1938

[fol. 75]

(b) To obtain and receive from the respective insurance companies advances or loans available under any policy held hereunder.

(c) To accept, collect and receive in cash, or otherwise dispose of all distributive shares of surplus or dividends which may be allotted and set apart to any policy held hereunder.

If the insured changes the beneficiary under any policy, or for any reason surrenders the insurance, such act shall have the effect of revoking this trust with respect to the policy so changed or surrendered.

**TWELFTH:** Settlor hereby relieves the Life Insurance Companies issuing the policies held hereunder from any responsibility to see to the execution or the performance of the trust created hereby.

**THIRTEENTH:** Settlor reserves the right to add to this trust any policies of insurance issued on his life, the proceeds thereof to be held on the same terms of trust and with like force and effect as if the said policies had originally constituted a part of the said trust.

**FOURTEENTH:** If an actuarial calculation is involved in the administration of any trust created hereby, Trustee is authorized to employ at any time and from time to time any recognized actuary to calculate (on a basis of consumption of principal and income; interest at 4½%; payments at the beginning of each year; age seventeen as the beginning of college years and/or such other factors as to Trustee shall seem proper) the sum or sums to be set aside by Trustee in order to comply with the provisions hereof; the cost thereof to be charged proportionately against the principal of the trust funds established hereunder. If a recalculation shall at any time disclose that an amount set aside is either excessive or insufficient for the purpose designated, then Trustee may distribute such excess amount among, or collect (and add to the said fund so set aside) the amount of any deficiency from, the principal of the other trust funds established hereunder in such proportions as may seem proper. Trustee shall not be responsible or liable for any variation by reason of depreciation in value of securities set aside or fluctuation in interest rates, and its discretionary power shall be absolute in the administration of this provision.

**FIFTEENTH:** In case of controversy or litigation over the collection of the proceeds of policies held hereunder Trustee is authorized to adjust, compromise or otherwise settle any contest concerning said policies or the collection thereof.

Trustee is hereby exonerated and released, except at its own option, from any duty or responsibility of entering into or maintaining litigation or instituting proceedings to enforce payment of the proceeds of any of the policies which may constitute a part of the trust created by this deed, until Trustee shall have been fully indemnified to its entire satisfaction against all expenses and liabilities to which, in the judgment of Trustee, it may be subjected by reason of such action.

**SIXTEENTH:** This Trust has been accepted in the State of Pennsylvania and shall in all respects be governed by the laws of that State.

**SEVENTEENTH:** Settlor shall have the right at any time, and from time to time, by an instrument or instruments executed under his hand and intended to take effect in his lifetime, to amend, revoke or change all or any of the trusts herein declared, and to make such new uses and trusts as to him shall seem fit; provided, however, that the duties, powers and liabilities of Trustee shall not be changed without its written consent.

**IN WITNESS WHEREOF** the parties hereto have hereunto set their hands and seals the day and year first above written.

SEALED AND DELIVERED
IN THE PRESENCE OF

Mary H. Haines [SEAL]

FIDELITY-PHILADELPHIA TRUST COMPANY

By J. E. Dunn
Vice-President

ATTEST: [illegible]
Assistant Secretary

On the 8th day of May A. D., One Thousand Nine Hundred and thirty-four (1934) before me

A NOTARY PUBLIC FOR THE COMMONWEALTH OF PENNSYLVANIA RESIDING IN THE CITY OF PHILADELPHIA

personally appeared Mary H. Haines, and in due form of law acknowledged the foregoing Indenture to be her act and deed and desired the same might be recorded as such.

Witness my hand and notarial seal.

I AM NOT A STOCKHOLDER, DIRECTOR OR OFFICER OF SAID TRUST COMPANY

NOTARY PUBLIC
My Commission Expires March 6, 1935

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**THIRD:** Trustee is hereby authorized to pay at any time, and from time to time, any portion or portions the principal of the funds he' ' In Trust hereunder unto or for the account of any beneficiary, or any descendant of Settlor, either for comfortable maintenance and support, for educational requirements, illness, operations, or for any reason whatsoever which shall to Trustee, in its discretion, seem sufficient. Any payments so made shall, so far as is practicable in the discretion of Trustee, be charged without interest against the share of principal represented by the individual benefited thereby, either at the time of such payment or at the time of any subsequent division or distribution of the said fund.

**FOURTH:** If at any distribution of the principal or income of the trust fund any of the beneficiaries entitled thereto shall be minors, Trustee may retain such shares during the minority of the respective beneficiaries, and may invest any moneys so held in accordance with the provisions of this agreement governing investments by Trustee; or such shares may be applied, in the absolute discretion of Trustee, to the maintenance, education and support of such minors, either by the payment of bills therefor or by the payment thereof unto their respective Guardians or unto such person or persons as Trustee may select; the receipt of such payee to be a full and complete discharge to Trustee.

**FIFTH:** If, in the opinion of Trustee, any beneficiary hereunder shall at any time, for any reason whatsoever, be incapable of properly using the income to which he or she may be entitled, Trustee may, during the period of such incapacity, apply the said income for the proper maintenance and support of such beneficiary, either by the payment of bills therefor or by the payment thereof to such person or persons or institution as to Trustee shall seem best; the receipt of such payee to be a full and complete discharge to Trustee.

**SIXTH:** The principal of the trust and the income therefrom, shall be free from the debts, liabilities and engagements of those beneficially interested therein, and shall not be subject to assignment by them nor to attachment, execution or sequestration under any legal, equitable or other process for the enforcement of judgments or claims of any sort against them, either individually or collectively.

**SEVENTH:** If at any time in the administration of any trust created hereby a division or distribution of principal is involved, and any question shall arise as to the time of such distribution, the basis on which the valuation of the shares to be distributed or set aside shall be determined, the securities and/or cash to be allocated to such shares, or any other matter in connection with such division or distribution of principal, the decision of Trustee shall be final and conclusive.

**EIGHTH:** Trustee may without liability, invest, reinvest and keep invested the principal of the trust in such stocks, bonds, securities, investments or other evidences of indebtedness as to Trustee may seem prudent, without being confined to such as are usually termed "legal investments"; with full power and authority to purchase investments as aforesaid at a premium and, in its discretion, to deduct all or any part of such premium from income.

Trustee may purchase from the estate of Settlor, or from any account of Settlor, loan or otherwise, any investments or property held therein at such price as to Trustee, in its absolute discretion, may seem proper and may hold the same as investments hereunder; or Trustee may lend to the Executor of the Will or Administrator of the estate of Settlor such sums of money as Trustee may think proper, taking as collateral security therefor any of the investments then constituting part of Settlor's estate; or taking, without collateral, the note of the said Executor or Administrator.

Trustee may exercise any rights to subscribe for stocks or bonds or other allotments received by reason of investments held in the trust, or may sell such rights for such price as to it may seem best.

Trustee may in connection with reorganization, merger or foreclosure proceedings, or under any other circumstances which seem to warrant it, deposit, surrender or exchange any stocks, bonds or other evidences of indebtedness belonging to the trust and pay any amounts assessed thereon, and Trustee may deposit any of them under a Voting Trust Agreement.

Trustee is authorized and empowered to sell any and all property constituting the trust at either public or private sale, at such time or times, for such price or prices, upon such terms as to cash and credit as it may think best.

**NINTH:** Trustee assumes no liability for the payment of premiums or other charges which may at any time become due upon the policies included under this agreement, it being expressly agreed that such premiums or other charges shall be paid by Settlor.

**TENTH:** If any policy included under this agreement shall mature and be payable before the death of Settlor, he shall be permitted to collect and receive the proceeds of such policy, free and clear of any and all trusts.

**ELEVENTH:** All benefits, privileges and options, available to the insured under the policy contracts prior to decease, except as herein otherwise provided, shall be for the sole benefit of the insured and shall not be subject to this trust, Settlor hereby expressly reserving unto himself by his own act alone, without the consent or approval or joinder of Trustee or any beneficiary of this trust (but not in limitation of any other option or privileges he may have) full power:

(a) To change the beneficiary of or assign any policy held hereunder.

[fol. 73]

trust with the same remainders over as herein set forth for the portion of the principal respectively represented hereunder by them.

If at any time fixed for the distribution of any portion of the principal hereof there shall be living no one qualified to take hereunder, then to transfer, assign and pay over the said principal then distributable unto such person or persons as would be entitled thereto and in the same proportions as provided by the laws of the State of Pennsylvania had Settlor died at the time fixed for the said distribution a resident of that State intestate, possessed thereof in fee and absolutely.

Trustee is hereby authorized at any time either to hold the principal hereof undivided or, in its absolute discretion, to segregate the trusts for the children and grandchildren of Settlor, and to allocate to the several trusts such bonds, stocks, or other investments or property as to Trustee, in its absolute discretion, shall seem proper.

Immediately upon the death of Settlor, ROBERT B. HAINES, 3rd, son of Settlor, shall be associated with FIDELITY-PHILADELPHIA TRUST COMPANY as Co-Trustee hereunder, with the same powers, discretions and duties as the said corporate Trustee. In the event of the death, resignation or inability to act of the said Robert B. Haines, 3rd, CHARLES H. HAINES, son of Settlor, shall succeed him as Co-Trustee hereunder.

IN UNITED STATES DISTRICT COURT

EXHIBIT H TO STIPULATION OF FACTS

WHEREAS by Agreement dated May 8, 1934 between MARY H. HAINES, Settlor, and FIDELITY-PHILADELPHIA TRUST COMPANY, Trustee, said Settlor retained the right to alter, revoke or change all or any of the trusts declared in the said agreement.

NOW, THEREFORE, pursuant to the right so retained Settlor hereby alters, revokes and changes the said agreement as follows:

(a) Settlor hereby revokes the Tenth Clause of the said agreement in its entirety and in lieu thereof substitutes the following clause:

"TENTH: If any policy included under this agreement shall mature and be payable before the death of Settlor, the proceeds of such policy shall be paid over to Trustee to be held upon the terms of trust set forth in the said agreement."

(b) Settlor hereby revokes the Eleventh Clause of the said agreement and in lieu thereof substitutes the following clause:

"ELEVENTH: Trustee is hereby, for the purposes of

(b) Settlor hereby revokes the Eleventh Clause of the said agreement and in lieu thereof substitutes the following clause:

"ELEVENTH: Trustee is hereby, for the purposes of the trusts herein created, vested with all right, title and interest in and to the policies, and is authorized and empowered to exercise and enjoy, for the purposes of the trusts herein created, all the options, benefits, rights and privileges under the policies and any additional policies made subject to this agreement, and the insurance companies issuing the policies are hereby authorized and directed to recognize Trustee as fully entitled to all options, rights, privileges and interests under the policies, and any receipts, releases and other instruments executed by Trustee in connection with the policies shall be binding and conclusive upon the insurance companies and any and all of them and upon all persons and corporations interested in the trusts herein created and/or the policies.

Any and all dividends due from time to time upon any and all policies held hereunder shall be paid to Trustee and the receipt of Trustee for such dividends shall be a full and complete discharge therefor to the insurance companies issuing the policies upon which the respective dividends are so paid. Any and all dividends so received by Trustee shall be applied by Trustee to the payment of premiums due upon policies held hereunder. With this exception, however, Trustee assumes no liability for the payment of premiums or other charges which may at any time become due upon the policies held under this agreement. Should Settlor fail to pay the said premiums Trustee, in its discretion, may borrow on the policies upon which such unpaid premiums are due and payable an amount sufficient to pay such premiums then due and payable, and use the amount so bor-

rowed to pay such unpaid premiums, or Trustee, in its discretion, may surrender the policies upon which unpaid premiums are due and payable and hold the cash surrender value thereof upon the same terms of trust as are herein set forth as to the proceeds of the policies payable hereunder at the death of Settlor and as though Settlor had died on the date upon which such cash surrender value is received by Trustee. In no event shall Trustee be obligated to enforce the covenant of Settlor to pay the said premiums unless Trustee, in its discretion, shall deem it advisable to do so and unless Trustee is also first indemnified to its entire satisfaction against all costs and charges to which, in its opinion, it may be subjected by reason of such action."

(c) Settlor hereby revokes the Seventeenth Clause of the said agreement and hereby substitutes therefor the following clause:

"SEVENTEENTH: It is hereby declared by Settlor that she has been fully advised as to the legal effect of the execution of this Agreement and informed as to the character and amount of the property hereby transferred and conveyed; and further that she has given consideration to the question whether the settlement herein contained shall be revocable or irrevocable and she hereby declares the same (as altered by this instrument) to be irrevocable and that it shall stand without power in Settlor at any time to revoke, change or annul any of the provisions herein contained."

ment herein contained shall be revocable or irrevocable and she hereby declares the same (as altered by this instrument) to be irrevocable and that it shall stand without power in Settlor at any time to revoke, change or annul any of the provisions herein contained."

IN WITNESS WHEREOF the said Settlor has hereunto set her hand and seal and the said Trustee has caused its corporate seal to be affixed, duly attested, this 6th day of July A.D. 1938.

Sealed and Delivered in the presence of:

J. C. Weatherly

Mary H. Haines (SEAL)

FIDELITY-PHILADELPHIA TRUST COMPANY

By Ira Penney

Vice President

ATTEST: Thomas Stewart

Assistant Trust Officer

On the 6th day of July A.D. 1938 before me, a Notary Public in and for the State of Pennsylvania residing in Philadelphia, personally appeared Mary H. Haines, who in due form of law acknowledged the foregoing Supplemental Agreement to be her act and deed and desired the same might be recorded as such.

Witness my hand and notarial seal.

John D. Johnson

NOTARY PUBLIC

[fol. 79] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION No. 14406

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FIDELITY-PHILADELPHIA TRUST COMPANY AND ROBERT B. HAINES, III, Executors of the Will of Mary H. Haines, Plaintiffs,

v.

FRANCIS R. SMITH, Collector of Internal Revenue, Defendant.

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EXCERPTS FROM SUPPLEMENTAL STIPULATION OF FACTS —Filed June 25, 1956

[fol. 80] (4) The original of the agreement entered into on July 6, 1938 by the decedent and Fidelity-Philadelphia Trust Company of Philadelphia as Trustee (amending the aforesaid agreement of May 8, 1934), a copy of which is attached to the original Stipulation of Facts as Exhibit H, was delivered to the said Trustee on or about July 8, 1938.

* * * * * * *

[fol. 82] (13) On or about April 3, 1944, The Mutual Life Insurance Company of New York received a copy of the aforesaid agreement dated July 6, 1938, by and between the decedent and Fidelity-Philadelphia Trust Company of Philadelphia, as Trustee, and with respect thereto The Mutual Life Insurance Company of New York received an affidavit from the decedent dated May 26, 1944, a copy of which is attached hereto as Exhibit I and hereby made a part hereof.

[fol. 83] (20) On May 31, 1944, the John Hancock Mutual Life Insurance Company received a letter, dated May 29, 1944, from the Fidelity-Philadelphia Trust Company, as Trustee aforesaid, a copy of which is attached hereto as Exhibit J and hereby made a part hereof, in which said [fol. 84] letter there was enclosed a copy of the aforesaid

agreement dated July 6, 1938, by and between the decedent and Fidelity-Philadelphia Trust Company, as Trustee. The said John Hancock Mutual Life Insurance Company acknowledged receipt of the said letter in a letter dated June 8, 1944, a copy of which is attached hereto as Exhibit K and hereby made a part hereof. The reference in said latter letter to policy 254451 was intended to refer to the aforesaid life insurance policy No. 2544451 issued by John Hancock Mutual Life Insurance Company to the decedent.

* * * * * * *

[fol. 86] (27) At the time the decedent purchased the aforesaid life insurance policies and the aforesaid annuity contracts the agent made no attempt to sell her the annuities separate from the insurance.

(28) By use of the term "insurance" to describe the aforesaid policies the defendant is not stipulating that these policies are true insurance.

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[fol. 87] Exhibit I to Supplemental Stipulation of Facts

State of Pennaylvania )
County of Philadelphia )
City of Philadelphia )

Mary H. Haines, being duly affirmed, deposes and says:

I live at 156 School Lane, Philadelphia, Pa.

At the time I executed an instrument dated July 6th, 1938, amending the Trust Agreement between me and Fidelity-Philadelphia Trust Company, dated May 8th, 1934, I was misinformed as to rights in insurance policies on my life, Numbers 1025294, 4885836, and 4842239, issued by Mutual Life Insurance Company of New York, and was misinformed to the effect that I had some rights in these policies. I subsequently realized that I had, many years before, divested myself of all rights in those policies, and had transferred those rights to my children, and that, therefore, insofar as said agreement of amendment pur-

ported to affect the rights granted by the policies or allowed by the insurance company that agreement was and is of no effect whatsoever.

This affidavit is made to permit the Mutual Life Insurance Company of New York to allow the beneficiaries mentioned in the policies, in whom all rights in the policies are vested, to deal with the policies and change the terms thereof as they please.

/s/ Mary H. Haines

Mary H. Haines

Subscribed and affirmed
to before me this 26 day
of May, 1944.

/s/ Nellie Groves
Notary Public

(seal) Nellie Groves (Notary Public)
My Commission Expires April 14, 1947

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[fol. 88] Exhibit J to Supplemental Stipulation of Facts

Fidelity-Philadelphia Trust Company
Philadelphia, Pennsylvania

May 29, 1944

John Hancock Mutual Life Insurance Company
Home Office
Boston, Mass.

Gentlemen:

Re: Policy No. 254,451
Mary H. Haines

The above policy in your company in the face amount of $50,000. was taken out in October, 1934. In the application for this policy, the right to change the beneficiaries was not reserved to the insured.

In a rider attached to the policy titled, "Nomination of Beneficiary and Election of Settlement Option" dated

November 22, 1934, this Company as trustee of a Trust Agreement dated May 8, 1934, of which Mary H. Haines was the Settlor, was named as contingent beneficiary from time to time.

On July 6, 1938, Mary H. Haines, the insured, executed an amendment to the aforementioned Trust Agreement of May 8, 1934 making the Trust irrevocable and assigning to us as Trustee all her rights under the policy.

It has been brought to our attention that this amendment was never filed with your company. We enclose a copy of it.

From this, you will see that Mrs. Haines, the insured, has completely divested herself of all her right, title and interest in this policy, and has vested in this Company, as trustee, all rights which she formerly possessed.

It would therefore appear that, as, according to the original terms of the policy and application, all rights were vested jointly in the insured and the beneficiaries, these rights are now vested jointly in this Company as trustee and the beneficiaries.

We would appreciate your acknowledgment of this document as you will, in the near future, receive a request for a change in the option under which the settlement will be made.

We assume that any such request should be signed by the four children of the insured and also by this Company instead of the insured due to the powers granted to this Company by the insured in this Supplement dated July 6, 1938. Is this correct?

Appreciating your early reply.

Yours truly,

/s/ J. L. Weatherly

J. L. Weatherly
Assistant Secretary

[fol. 89] EXHIBIT K TO SUPPLEMENTAL STIPULATION OF FACTS

June 8, 1944

Fidelity-Philadelphia Trust Company
Philadelphia
Pennsylvania

Attention: J. L. Weatherly, Assistant Secretary

Dear Sir:

We have your letter of May 29th under cover of which you enclosed copy of amendment to the Trust Agreement dated May 8, 1934 between Mary H. Haines and your institution.

We are filing the copy of the amendment as evidence that the insured has vested all her right, title and interest in Policy 254451 on the life of Mary H. Haines, in the Fidelity-Philadelphia Trust Company and any change in beneficial interest should be signed by the four children of the insured and also by the Fidelity-Philadelphia Trust Company as Trustee.

Yours truly,

Dana J. Kidder,
Assistant Secretary.

By .....

[fol. 90] IN UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 12,067

FIDELITY-PHILADELPHIA TRUST COMPANY AND ROBERT B. HAINES, III, Executors of the Will of Mary H. Haines, Deceased,

v.

FRANCIS R. SMITH, Collector of Internal Revenue, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Argued January 24, 1957

Before BIGGS, *Chief Judge,* and MCLAUGHLIN and HASTIE, *Circuit Judges.*

OPINION OF THE COURT—February 28, 1957

By MCLAUGHLIN, *Circuit Judge.*

The question here is whether a death payment under a contract with a life insurance company is includible in the gross estate of the decedent under Section 811(c)(1)(B) [fol. 91] of the Internal Revenue Code of 1939, as amended, 26 U.S.C. 1952 ed. Sec. 811.[1]

[1] Internal Revenue Code of 1939:

"Sec. 81. Gross Estate.

"The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States—

• • •

"(c) [As amended by Sec. 7(a), Act of October 25, 1949, c. 720, 63 Stat. 891] Transfers in Contemplation of, or Taking Effect at, Death.—

"(1) General rule.—To the extent of any interest therein of which the decedent has at any time made a transfer (except

In 1934, decedent, aged seventy-six, purchased three single premium insurance policies on her life. As a condition for the issuance of each policy the insurors required decedent to purchase an annuity in such amount that the sum of the premiums for death payment and annuity would equal approximately 11/10ths of the face amount of the death payment. In the policies decedent's four children were named primary beneficiaries and the Fidelity-Philadelphia Trust Co. (as trustee under a trust agreement) contingent beneficiary of the share of any of the decedent's children who predeceased her. In 1935, decedent reported on a gift tax return the interests transferred and paid the gift taxes thereon. By July 6, 1938, decedent had assigned irrevocably and unalterably to the beneficiaries all her rights in all death payments.[2] Until the date of death, decedent retained the annuity interests.

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in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise—

* * *

"(B) under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (i) the possession or enjoyment of, or the right to the income from, the property, or (ii) the right, either alone or in conjunction with any person, to designate the person who shall possess or enjoy the property or the income therefrom; or * * *"

[2] As to the assignments of the three policies the findings are as follows:

"21. Pursuant to decedent's written application for the policies, each of the two life policies issued by The Mutual Life Insurance Company of New York contained at and after issue the following provision:

"RIGHTS: Anything in this policy to the contrary notwithstanding, prior to the maturity of this policy, the Insured's children Isabella H. Miller, Margaret W. Haines, Robert B. Haines and Charles H. Haines jointly, the survivors or survivor, if none of said children be living, then the living children of said children of the Insured, jointly or the survivors or survivor, if none of the children of said children of the Insured be living, then to the executors or administrators of the last survivor of said children of the Insured and the children of said children of the Insured, some of the beneficiaries may, without the consent and to the exclusion

[fol. 92] Decedent died May 7, 1946. In the estate tax return filed August 6, 1947, the death payments under the above contracts were not included in the gross estate. The Commissioner, under Sec. 811(c)(1)(B), assessed and collected a deficiency resulting from an audit which included those payments. After a claim for refund was disallowed, this suit was brought in the district court. The estate prevailed below and the government appealed.

Helvering v. LeGierse, 312 U.S. 531 (1941) removed the "life insurance" label from transactions such as these and directed that they be treated as investments. Goldstone v.

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of the Insured or any other beneficiary, receive, exercise, and enjoy every benefit, option, right and privilege conferred by this policy or allowed by the Company.

"22. The decedent's four children were named as beneficiaries of the life insurance policy issued by John Hancock Mutual Life Insurance Company in which no right to change beneficiaries was reserved to the decedent. The policy, as issued, provided for the payment of the proceeds to the decedent's executors or administrators if her four children predeceased her. The decedent assigned this life policy to Fidelity-Philadelphia Trust Company, trustee, under a trust agreement between her and that company, and then nominated that company as trustee to be contingent beneficiary of this life policy, and on November 22, 1934 the policy was amended so to provide.

"23. Under the trust agreement decedent had reserved to herself all benefits, privileges and options available to her under the life insurance policy issued by John Hancock Mutual Life Insurance Company including rights of dividend receipt, assignment and surrender and had also reserved the right to change, amend or revoke the trust agreement. On July 6, 1938 the decedent amended the trust agreement by assigning, irrevocably to the trustee for trust purposes all her right, title and interest in this and any other policy subject to the trust agreement and by irrevocably empowering the trustee to exercise and enjoy all options, benefits, rights and privileges under this and any other policy subject to the trust agreement. By the same amendment the decedent further provided that the trust agreement as so amended was thereafter unalterable and irrevocable. Neither decedent nor her estate had any beneficial or reversionary interest in the trust she created nor any reversionary interest in the life insurance policy issued by John Hancock Mutual Life Insurance Company after July 6, 1938."

United States, 325 U.S. 687 (1945), held the death payment in this type of transaction includible in the gross estate. Since then in United States v. Tonkin, 150 F.2d 531 (3 Cir. 1945), cert. den. 326 U.S. 771, we held a similar death pay-
[fol. 93] ment includible. The present situation is allegedly beyond the reach of those authorities as a result of the assignment of all the decedent's rights except the annuity to the trustee. That precise issue has been decided for the government in Reynolds v. Commissioner, 45 B.T.A. 44 (1941); Burr v. Commissioner, 156 F.2d 871 (2 Cir. 1946), cert. den. 329 U.S. 785; Conway v. Glenn, 193 F.2d 965 (6 Cir. 1952). The Court of Appeals for the Seventh Circuit did reach the opposite result in Bohnen v. Harrison, 199 F.2d 492 (7 Cir. 1952), Judge Duffy dissenting, affirmed by an equally divided court, 345 U.S. 946, rehearing denied 345 U.S. 978. However, in a later opinion, Greene v. United States, 237 F.2d 848 (7 Cir. 1956), that court, construing the same section, 811(c)(1)(B), squarely conceded that "The decisive issue is whether, looking to substance and not merely to form, the decedent had retained for her life the right to the income from the property transferred."

The district court in following the Bohnen case misconstrues the Goldstone opinion. In the latter the court included the death payment in the gross estate on the ground that the decedent retained a contingent reversionary interest under Helvering v. Hallock, 309 U.S. 106 (1940), and found it unnecessary to reach the question whether the retention of the life annuity interest involved required its inclusion. There is nothing in Goldstone to support taxpayers' position.

It is urged that the annuity interests are completely separate and independent of the death payments and therefore cannot be encompassed by the following language of Sec. 811(c)(1)(B)—" * * * retained for his life * * * the right to income from the property * * * ". To demonstrate this independence taxpayers point to the fact that the annuity interests could be purchased by any one the age of the decedent for the same premium independent of the death payment. The illustration fails completely to show the independence of the death payment from the income payments for admittedly the death payment could not be

[fol. 94] bought without the income payments and it is the death payment which is sought to be included in the estate.

The argument itself exalts form over substance in an arrangement where the Supreme Court has specifically directed that the form be ignored. Helvering v. LeGierse, supra. The substance of the matter is that a capital fund—the premium—was deposited with the insurance company for a guaranteed annual return and repayment of the residue to beneficiaries on the death of the depositor. But for the insurance company's guarantee of the payments, it is identical to a transfer in trust with the settlor taking back a beneficial life interest. The assignments of all rights to the beneficiaries do not change the result. In the first place it does not appear that the beneficiaries received anything substantial since they were all contingent beneficiaries and survivorship was unknowable until the death of the decedent. While, theoretically, there may have been a possibility of anticipating the death payment by a cash surrender, the anticipators could do nothing with the cash until the survivorship status was determined. A bare possibility of cash surrender does not change the inherently testamentary nature of this procedure. If a surrender is effected, a different problem is presented. Cf. Hutchinson v. Commissioner, 20 T.C. 749 (1953). Here the plain purpose was to convey the capital sum to the natural objects of the decedent's bounty in testamentary style and retain a life interest in the transferor. The small matter of the cash surrender right is well disposed of in Bank of New York v. Kelly, 135 N.J. Eq. 418 (1944) as follows:

> "In view of the conservative reason for the investment, it seems fantastic to suppose that a cancellation of the policy by Mrs. Parish during the lifetime of the insured at its surrender value was regarded by either as probable. If the decedent had intended to make a complete, absolute, and immediately effective gift, why would he resolve to invest a material portion of his [fol. 95] estate in such manner that an enjoyment of it by the donee before his death would necessitate the loss incident to the surrender of the policy. Guggenheim v. Rasquin, 312 U.S. 254, 257. Cash or securities

could well have been deposited in the trust instead of a single premium life insurance policy payable upon the event of death and having a surrender value based on a mortality table."

The district court was greatly impressed with the conclusion that the decedent had no ownership rights in the death payment after the assignments. In a sense, a life tenant has no ownership right in the remainder. But possession of legal title to the life policy after the assignment is not controlling. All of Section 811(c) is plainly directed at inter vivos transfers where title is no longer in the decedent at death. Taxation is a practical matter and the shifting of the economic benefits of the investment occasioned by the death of the decedent is too much akin to a testamentary disposition not to be subjected to the same tax under Sec. 811(c)(1)(B). See Helvering v. Bullard, 303 U.S. 297 (1938).

The judgment of the district court will be reversed and the case remanded with the direction that judgment be entered in favor of the defendant (appellant in this court).

[fol. 96] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 12,067

FIDELITY-PHILADELPHIA TRUST COMPANY and ROBERT B. HAINES, 3d, Executors of the Will of Mary H. Haines, Deceased,

v.

FRANCIS R. SMITH, Collector of Internal Revenue, Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Present: BIGGS, *Chief Judge,* and MCLAUGHLIN and HASTIE, *Citcuit Judges.*

JUDGMENT—February 28, 1957

This cause came on to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was argued by counsel

On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said District Court in this case be, and the same is hereby reversed, and the case remanded with direction that judgment be entered in favor of the defendant-appellant.

February 28, 1957

[fol. 97] Petition for rehearing covering 11 pages filed March 11, 1957 omitted from this print.

It was denied and nothing more by order March 15, 1957.

[fol. 98] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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[Title omitted]

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ORDER DENYING PETITION FOR REHEARING—March 15, 1957

After due consideration the petition for rehearing in the above-entitled case is hereby denied.

By the Court

McLAUGHLIN
Circuit Judge

Dated: March 15, 1957

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[fol. 101] CLERK'S CERTIFICATE TO FOREGOING TRANSCRIPT (omitted in printing)

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[fol. 102] SUPREME COURT OF THE UNITED STATES

No. 1008, October Term, 1956

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[Title omitted]

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ORDER ALLOWING CERTIORARI—June 17, 1957

The petition herein for a writ of certiorari to the United States Court of Appeals for the Third Circuit is granted, and the case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.